IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

Criminal

Case No. 21/2685 SC/CRML

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

v

JERRY TARI

Date: Before: Counsel: 2 November 2021 Justice V.M. Trief Public Prosecutor – Ms B. Ngwele Defendant – Mr L. Moli

SENTENCE

A. Introduction

- 1. Mr Tari pleaded guilty to threat to kill and domestic violence (Counts 1 and 3). He accepted the brief of facts and accordingly was convicted on his own pleas and the admitted facts.
- B. Facts
- 2. Mr Tari is the de facto partner of the complainant.
- 3. On 9 February 2021, Mr Tari came home and assaulted the complainant after overhearing her conversation on the phone with her mother. He used a piece of wood to hit the complainant's head. She fell to the ground. He continued to assault her, punching her in the face and kicking her backside, causing her to receive injuries to her right eye, an abrasion over her left cheek and tenderness to her left shoulder (Count 1). A family member Janet intervened and took the complainant out of Mr Tari's reach.
- 4. The next day, Mr Tari again assaulted the complainant. He chased her with a knife, threatening to kill her, saying "Today I will cut your neck off" ('Tete bai neck blong yu I aot') (Count 3).
- 5. Mr Tari made full admissions to the Police.

C. <u>Sentence Start Point</u>

6. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.



- 7. The maximum sentences provided are:
 - a. Threat to kill 15 years imprisonment; and
 - b. Domestic violence 5 years imprisonment or VT100,000 fine or both.
- 8. There are no mitigating aspects of the offending but it is aggravated by the following:
 - Breach of trust;
 - The offending occurred in the home where the complainant was entitled to be safe and protected;
 - The use of a weapon;
 - The offending occurred in the presence of a child;
 - The repeat nature of violence;
 - The controlling attitude demonstrated; and
 - The effect upon the complainant including the injuries inflicted to her head which is the most vulnerable part of the body.
- 9. The factors set out above require a sentence start point of 4 years imprisonment for the threat to kill and 2 years 6 months imprisonment for the domestic violence charge.
- D. <u>Mitigation</u>
- 10. Mr Tari pleaded guilty at the first opportunity. He has spared the complainant the need to give evidence against him although the Prosecution case against him was strong. For this factor, I deduct 25% from the sentence start point.
- 11. Mr Tari is 34 years old. He was in a *de facto* relationship with the complainant and has 2 children. After the offending, Mr Tari and the complainant separated and now live with new partners.
- 12. He is a plantation worker at Tamanu.
- 13. Mr Tari has no previous convictions. He is stated to have a good relationship with his community. He is remorseful and has performed a custom reconciliation ceremony with the complainant and her family involving kava, chicken and 5kg rice which was accepted.
- 14. For Mr Tari's personal factors, I deduct a further 4 months from the sentence start point.
- E. End Sentence
- 15. Taking all of those matters into account, the end sentences imposed concurrently are:
 - a. Threat to kill (Count 1)

2 years 8 months imprisonment; and

- b. Domestic violence (Count 3)
- 2 years imprisonment.

- 16. This Court has a discretion to suspend all or part of the sentence in certain circumstances. Factors militating against suspension are the seriousness of the offending, the breach of trust and the fact the offending occurred in the family home and in the presence of a young child.
- 17. However, I am prepared to suspend part of the sentence in view of the prompt guilty pleas, Mr Tari's remorse, participation in a custom reconciliation ceremony and previous clear record. I also consider that because Mr Tari and the complainant have separated and are now in new relationships, there will not be any further offending against the complainant. I trust that Mr Tari has learnt from this experience and will not commit violence against <u>anyone</u> in the future. Accordingly, Mr Tari is to serve 16 months of his imprisonment sentences. I suspend the remaining 16 months and 8 months of his imprisonment sentences for 3 years. Mr Tari is warned that if he offends again within the 3 year period of suspension, he will need to serve the remainder of his sentences in addition to any other penalty that may be imposed on him for the further offending
- 18. Mr Tari has 14 days to appeal.

