

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal
Case No. 25/600 SC/CRML

PUBLIC PROSECUTOR v WITING JOHN MARK MANLUNGEP

Date of Plea: 14 April 2025

Before: Hon. Chief Justice Vincent Lunabek

In Attendance: J Tete for the Public Prosecutor
B Taleo for the Defendant

Date of Sentence: 17 April 2025

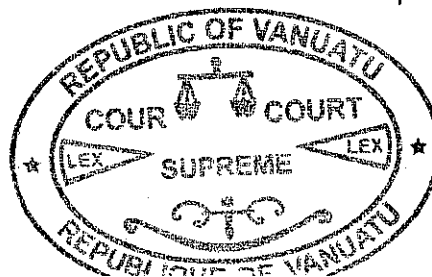
SENTENCE

I. Introduction

1. Mr Manlungep has pleaded guilty and accepted the summary of facts relating to one count of threats to kill a person, contrary to Section 115 of the Penal Code. The maximum sentence for this offence is 15 years imprisonment.

II. Facts

2. Mr Manlungep and the complainant are cousins. The mother of the defendant and that of the complainant are sisters. They all live at Lemmora Village, East of Gaua, Banks Islands.
3. On the 29th of September 2024, the Defendant and the complainant including a few of their other cousins were drinking alcohol together. While they were drinking, the complainant shouted the name of the Defendant and swore at him. This made the Defendant angry and he told the complainant to shut up and at the same time, he walked up to the complainant to fight him. In seeing this the complainant's father sent a brother of his to get the victim back to their home.
4. The next day, on the 30th of September 2024, after the complainant had returned from his friends who they were drinking together the previous night, he was warned by his mother that the Defendant had come to their house and had told her that he will stab the complainant with a knife. This scared the complainant which led him, his mother, his little brother and sister all went to the sea in fear that the Defendant will come to their home and stab the complainant.



5. The complainant, his mother, little brother and sister decided to return home in the afternoon. They were at the community ground when the complainant saw the Defendant walking towards him with a knife threatening him in this way: "*Edison yuk am bai mi stickem dead yu lo place ia*" and he kept on repeating it to him. In seeing this, the father of the complainant and his uncle walked up to the Defendant and removed the knife from him and took him back to his house.

III. Aggravating and Mitigating Factors of the offending

6. There are no mitigating factors of the offending, but the following aggravating factors of the offending exist:
- The threats to kill the complainant was materialised with the use of a weapon (a knife);
 - Searching and walking towards the complainant with a knife; and
 - Repeating the threats to kill the complainant directly at him with the knife.

IV. Start Point

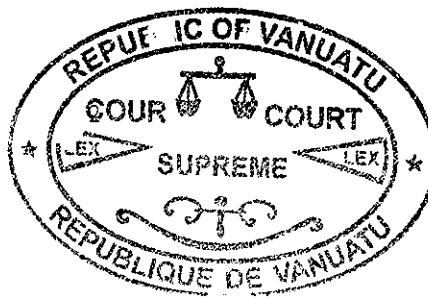
7. The start point for this offending as required to be identified by Public Prosecutor v Andy [2011] VUCA 14 and Philip v Public Prosecutor [2020] VUCA 40, is set at 3 years imprisonment based on Walker v Public Prosecutor [2007] VUCA 12.

V. Personal Factors

8. Mr Manlungap is 38 years of age. He is married with 5 young children with his fourth child in class 2. He had a good working relationship with all his family members in the community. His plan in the future is that he wants to buy a boat to do fishing and transport.
9. Mr Manlungap is a first-time offender. He has no previous conviction. He was remanded at the Luganville Correctional Centre on the 25th October 2024 and released on bail on the 13th November 2024 which is a total of 20 days in pre-custodial period. This represents an effective total of 1 month and 10 days in pre-custodial period.
10. He had performed a custom compensation ceremony to the complainant and family. He gave 1 pig and VT10,000 and the complainant gave him 1 pig as a sign of reconciliation accepted by both parties.
11. For Mr Manlungap's personal factors, I reduce the starting point of his sentence by 33% to reflect on his guilty pleas at the first opportunity given by the Court. I give a further reduction for his other personal factors by 4 months. The final matter of mitigation is the custom compensation reconciliation which I give him another reduction of 4 months.

VI. End Sentence

12. I take all those matters into account, the end sentence that must be imposed is one of 14 months and 20 days imprisonment.



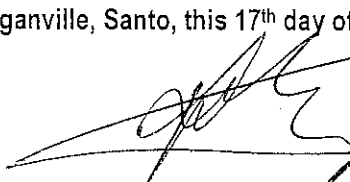
VII. Suspension

13. It would be inappropriate to suspend this sentence in whole or in part. The aggravating factors adverted to earlier make it plain that suspension would be inappropriate. It would undermine the deterrent effect this sentence is intended to ensure no further similar offending occurs.
14. Mr Manlungap shall serve the term of 14 months and 20 days imprisonment with immediate effect.

VIII. Other

15. Mr Manlungap has 14 days to appeal this sentence if he disagrees with it.

DATED at Luganville, Santo, this 17th day of April, 2025.


Hon. Chief Justice Vincent Lunabek

