

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

Criminal
Case No. 21/3829 SC/CRML

**BETWEEN: The Public Prosecutor
Prosecutor**

AND: Johnny Huri
Defendant

Coram: *Justice Aru*
Counsel *Ms. M. Tasso for the Public Prosecution*
Mr. R. Tevi for the Defendant

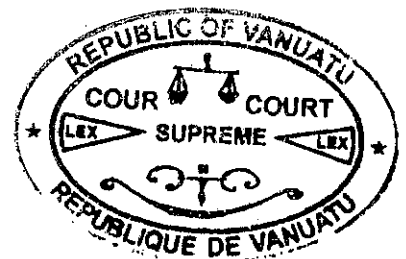
SENTENCE

Introduction

1. Mr John Huri was charged with one count of sexual intercourse without consent (count 1) and one count of domestic violence (count 2). He pleaded guilty to count 1 and not guilty to count 2. The charge of domestic violence was then nollied by the Prosecution. He is now for sentence on the single charge of sexual intercourse without consent.

The facts

2. The complainant resides at freswota 1 in Vila. On occasion she will visit the defendant and his family who live at Manples area. The defendant is her father's cousin. On 16 October 2021 she went to visit them and stayed over. The next day, 17 October she went to see her friends at Tagabe. She later texted the defendant around 900pm at night to go and get her. The defendant at that time was driving a yellow service bus.
3. After he picked her up he continued the bus service with her in the bus. This continued until 12 midnight when there were no more passengers in the bus and he drove the complainant to Banana bay area. Whilst the complainant was still seated at the rear of the bus the defendant undressed her then took off his own clothes. He wanted the complainant to hold his penis but she refused and pulled her hand away. He opened her legs and inserted his penis into her vagina and had sexual intercourse with her. The complainant felt pain but remained calm as she was terrified of him. When he removed himself he ejaculated on the complainant's left leg. She wiped herself with her skirt then wore her clothes and he drove them back to his house at Manples area.
4. The next day the complainant went to the Police station and filed a complaint about what the defendant did to her. When the defendant was interviewed by the police, he admitted the offending.



Starting point

5. Sexual intercourse without consent is punishable by a maximum sentence of life imprisonment. The offending is aggravated by a number of factors. First there is an element of planning involved. There is also a breach of trust as the defendant is the complainant's uncle. There is an age disparity and the offending exposed the victim to contracting sexually transmitted diseases and unwanted teenage pregnancy. The victim was terrified by what the defendant did to her.
6. There are no mitigating factors.
7. When I consider what the Courts have said in **PP v Scott** [2002] VUCA 2 and **Public Prosecutor v August** [2000] VUSC 73 I set the starting point of sentence at 8 years imprisonment.

Personal factors

8. The defendant entered a guilty plea at the first available opportunity therefore the sentence will be reduced by the full one third discount.
9. No pre-sentence report was filed as directed. Mr. Tevi submits that the defendant is 32 years old. He is the breadwinner in his family. He earns his income by driving his own service bus.
10. He lives in a defacto relationship and has a baby daughter. Mr Tevi submits that the defendant is a first time offender with no previous conviction. No custom reconciliation has been performed as the complainant's family have refused to be part of it.
11. The sentence is further reduced by 12 months.

End sentence

12. The end sentence is rounded off to 4 years imprisonment **effective from 19 October 2021** when the defendant was remanded into custody.
13. The defendant has 14 days to appeal if he disagrees with the decision.

DATED at Port Vila this 20th day of December, 2021

BY THE COURT

D. Anu
Judge

