

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

Criminal
Case No. 25/41 SC/CRML

BETWEEN: Public Prosecutor

AND: John Aru
Defendant

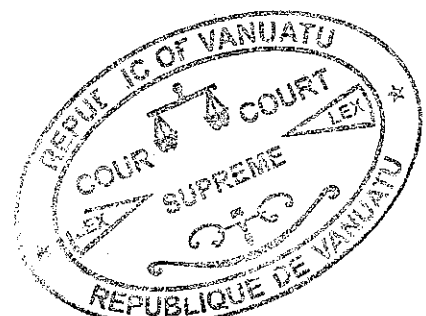
Date of Plea: 2nd April 2025
Date of Sentence: 4th April 2025

Before: Hon. Justice Oliver A. Saksak

Counsel: Ms Josephine Tete for Public Prosecutor
Ms Barbara Taleo for the Defendant

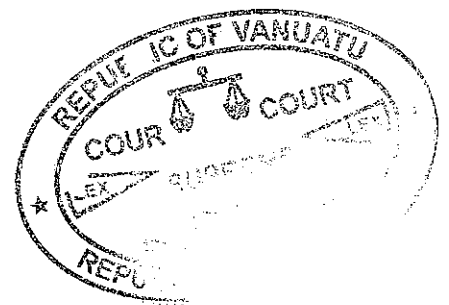
SENTENCE

1. John Aru pleaded guilty to one count of sexual intercourse without consent, section 90 and 91, Penal Code Act, and to one count of act of indecency, section 98 of the Act. He is for sentence today.
2. In December 2022 at Beleru Area, Santo he pushed his finger into the vagina of the complainant Helen Aru without her consent. Later in June 2024 he committed an act of indecency on another girl Latisha Tari when he touched her on her left breast without her consent. The victim cried as a result of being touched by the defendant.
3. The defendant accepted the summary of facts as read by the Prosecution without any qualification.
4. He is convicted and sentenced on his own admissions and guilty pleas.



5. These are serious offendings. Inserting a finger into the vagina of a woman amounts to sexual intercourse under section 89 A (a) of the Penal Code Act. And where it is done without consent, it carries the maximum of life imprisonment.
6. Likewise, act of indecency without consent carries the maximum penalty of 7 years imprisonment.
7. There were no mitigating circumstances for the offendings. But there are aggravating features such as the breach of trust, the offendings occurring within the confines of the home where the victims were to be safe and protected. There was great disparity of ages between the victims and the defendant of 20 and 21 years difference. There was loss of dignity causing distress at least on the second victim. There were two different victims in a time span of about 2 years.
8. Prosecutions referred the Court to PP v Scott [2002] VUCA 29, PP v Gideon [2002] VUCA 7, PP v Garae [2021] VUSC 304, PP v Taiwia [2017] VUSC 174, PP v Natiang [2021] VUSC 116, Tangiat v PP [2014] VUCA 15, PP v Loli [2024] VUSC 340 and Boesdeana v PP [2011] VUCA 33. These cases set out the helpful guideline principles of sentencing in similar sexual offending cases.
9. Defence Counsel referred to case such as PP v Ali [2000] VUCA 73, PP v Andy [2011] VUCA 14, Nampo v PP [2018] VUCA 43, where the Court of Appeal referred to PP v Enock Tao [2012] VUSC 29, PP v Harkenson Moisa [2016] VUSC 5 and PP v Amos Telukluk [2017] VUSC 162. Further reference was made to PP v Jeffrey [2010] VUSC 41, Tangiat v PP [2014] VUSC 15, PP v Males [2015] VUSC 91 and PP v Job [2023] VUSC 132.
10. Taking all factors into consideration and in light of the guideline cases, the defendant's appropriate sentence to be a custodial sentence. And I sentence him as follows:-
 - a) For sexual intercourse without consent, Count 1-A sentence of 5 years imprisonment.
 - b) For act of indecency without consent, Count 2, a sentence of 1 year imprisonment to be served consecutively with the 5 years sentence for the charge in Count 1.

The total sentence shall be 6 years imprisonment.



11. In mitigation I reduce the sentence for guilty pleas by 2 years. And for all his other personal factors are submitted in the submissions and the Same Day Report, I reduce the balance of the sentence by a further 12 months or 1 year.
12. The end sentence of the defendant shall be 3 years imprisonment with immediate effect as from today. The sentence will not be suspended.
13. That is the sentence of the Court. The defendant has a right of appeal within 14 days if he so chooses.

DATED at Luganville this 4th day of April 2025

BY THE COURT


Hon. Oliver A Saksak

Judge

