

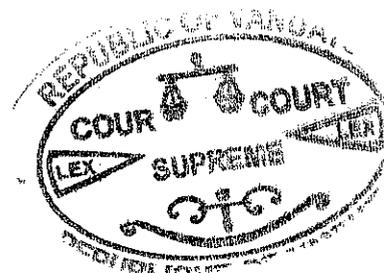
BETWEEN: Public Prosecutor

AND: Timothy Lava
Defendant

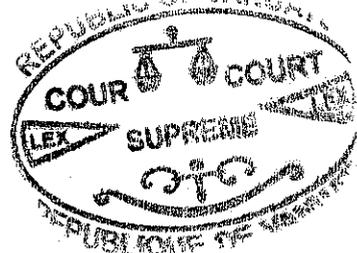
Date of Plea: 10th March 2026
Date of Sentence: 13th March 2026
Before: Hon. Oliver A Saksak
Counsel: Mr Lenry Young for Public Prosecutor
Mr Harrison Rantes for the Defendant

SENTENCE

1. Timothy Lava was re-arraigned on a charge of sexual intercourse without consent. He admitted the charge and accepted the facts as related by the Prosecutor. He is now for sentence.
2. He is 31 years old. The victim and complainant is 27 years old. The offence occurred on 4th November 2023 at night, the complainant went to Anchor Night Club. She met some friends and had some drinks. They left the club at 4:00am when it closed. They stopped a blue truck which dropped them off at Korman fuel station. She wanted to go to the toilet and in doing so the truck left without her. As she walked on to a relative's house at Enam church area, another blue single can truck was parked close to a shop. The defendant and another man were in the truck. They called to her and asked her where she lived. She replied and they offered to drop her off at her house. She then climbed onto the truck and they left.
3. The complainant then dozed off from her hangover. She woke up when the defendant woke her up by a fenced plantation at Banana Bay. The defendant told her to follow him to go to his sister's house. In doing so they went under a fence and walked into the plantation. The defendant then told her to follow him into the bushes. She then realised there were no houses in sight and began to feel afraid.
4. The defendant then forced her to have sex with him and she started to cry. He then threatened to kill and throw her into the nearby swamp. She continued to cry in fear. He threatened her further that he would kill her if she did not stop crying. He then held her right hand, pushed her down to the ground and then removed all her clothes. He then unzipped, removed his penis and penetrated her vagina. He ejaculated after a short while. The defendant then left the complainant and went back onto the road. The complainant remained in the bushes crying. The driver of the truck returned and approached the complainant. He apologised to her for the defendant's actions and gave her 400vt. They then walked back to the truck and they drove her back to town. They dropped the complainant off at Korman Bus station. They promised to buy her a mobile phone.



5. The only explanation given by the defendant when he was given the opportunity by the Court was that he had asked the complainant to "befriend" her and she had agreed. However this cannot be a mitigating circumstance to the credit of the defendant.
6. Sexual intercourse without consent is a serious offence carrying the maximum penalty of life imprisonment.
7. There aggravating features were:
 - a) A breach of trust. The defendant and his friend had offered to drop the complainant at Beverly Hills. Instead they went to Banana Bay.
 - b) The defendant took advantage of the complainant being asleep from her hangover and the force used to obtain sexual satisfaction.
 - c) The vulnerability of the complainant being of younger age than the defendant.
 - d) The planning involved.
 - e) The threats to kill her if she refused sex.
 - f) The unprotected sex putting the complainant to the risk of catching sexually transmitted diseases.
8. The case of PP v Gideon [2002] VUCA 7 is the classic case applicable to this type of sexual offending that must be adopted and applied. The other classic cases is PP v Scott [2002] VUCA 29 and PP v Ali CrC 14 of 2000.
9. The case of PP v Warsal [2003] VUSC 73 and Warsal v PP [2023] VUCA 39 is slightly distinguished on its facts and which in my view is less serious than their defendant's case. I note also PP v Jackson [2020] VUSC 104 which appears to me to be more serious than this case as well.
10. Taking all these factors together with the seriousness of the offence committed, I consider that the appropriate punishment for the defendant is a sentence of imprisonment.
11. I therefore sentence the defendant to imprisonment. I set the starting sentence to be 8 years imprisonment.
12. In mitigation I take into account the following factors:
 - a) The guilty plea rearraignment- it was a late guilty plea and therefore I allow a reduction of 10 months for this factor.
 - b) For other personal mitigating factors in the Same Day Report and the defence submissions, I reduce the balance of the sentence by a further 14 months or 1 year and 2 months. The balance of the sentence shall be 6 years imprisonment.
13. Finally I take into account the period the defendant has been in custody under remand from 5th December 2023 to 25th September 2024, a period of 9 months. I deduct a further 9 months from the 6 years leaving the balance and end sentence to be 5 years and 3 months.



14. In order that the defendant does not lose his parole privilege, I order that that the defendant's sentence of 5 years and 3 months take immediate effect as of today (13/3/2026) but backdated to 24th September 2025 when he was arrested for breach of bail conditions and held in custody under existing warrant to date.
15. The defendant is sentenced to an end sentence of 5 years and 3 months effective as of today's date. He may apply for parole having served up to half of the sentence.
16. There is right of appeal against this sentence with 14 days if the defendant does not agree with it.

DATED at Isangel, Tanna this 13th day of March 2026

BY THE COURT


Hon. Justice Oliver A Saksak

