

**PUBLIC PROSECUTOR**

**V**

**SPEN RASARE**

*In Attendance: Mr. Solomon Asang for the State  
Ms. Akineti Yeeon for the defendant*

---

**SENTENCE**

---

**A. Introduction**

1. Mr. Spen Rasare pleaded guilty on the charges of domestic violence.
2. He is therefore convicted as charged.

**B. Facts**

3. The victim whose name is suppressed is fifteen years of age and is the defendant's first cousin.
4. The victim's mother lodged a complaint in the Police at Lakatoro stating that in the month of December 2023 the defendant entered their home at Lekhan village while they were sleeping at night.
5. He proceeded to the victim's bed and demanded the victim to undress herself.
6. The victim refused but he insisted and told her he would hit her if she does not comply.
7. The victim out of fear undressed herself. The defendant then fondled her breasts, sucked her vagina and then penetrated her vagina with his penis until he ejaculates.

8. The victim said she saw white liquid discharged on the mat and alerted the defendant about it. The defendant then uses his short to wipe the white liquid.
9. The defendant then wore his clothes and then left the house.
10. The police arrested the defendant and upon cautioning him, he admitted the offending.

### **C. Sentence starting point**

11. The maximum penalty of domestic violence is 5 years imprisonment or VT 100,000 or both.
12. There are no mitigating aspects of the offending. The aggravating factors are:
  - The offending occurred in the confine of the complainant's home where she is entitled to feel safe and secure.
  - Breach of trust in the family unit.
  - The complainant is a young girl who deserves full protection from men let alone family members.
  - There is a degree of planning as the defendant called the victim in through the window and when she refuses, he then entered the house through the door when everyone else in the house were asleep.
13. In considering the aggravating factor, I set a starting point of 2 years imprisonment.

### **D. Deductions for Guilty Plea**

14. The defendant pleaded guilty at first opportunity. He is entitled to one-third reduction.
15. This flows from his prior admissions to the Police at cautioning. He is therefore entitled to one-third reduction of his starting sentence, which is 9 months.

### **E. Personal Factor**

16. The defendant is 16 years of age and is born and raised in Malekula Island.
17. He is attending year 7 at Brenwei Junior Secondary School.
18. He lives with his parents in Malekula Island.
19. He is a first time offender.
20. He expressed remorse for his actions.
21. He pleaded guilty at first given opportunity.

22. Upon his arrest in Malekula, he was flown to Santo where he was remanded in custody for over a month.
23. He is willing to perform reconciliation with the victim and her family.
24. For his personal factor, I make a further discount of 6 months.

#### **F. End Sentence**

25. The sentencing principles achievable in this case amongst others expressed in *Public Prosecutor v Vahirua* [2018] VUSC 15 are to hold you accountable for your conduct, to denounce your criminal conduct, to protect the community, to promote sense of responsibility for the harm done and to assist in your rehabilitation and re-integration.
26. Taking into account all matters in relation to all matters aggravating and mitigation personal to your offending, the end sentence imposed on your offending is 9 months imprisonment.
27. I note from the defence counsel's submission that the defendant is a young offender and is attending year 7 at Brenwei Secondary School. Moreover, he has been remanded in custody for 7 weeks.
28. On the foregoing, his imprisonment sentence is suspended for 2 years.
29. This means he must not re-offend within 2 years.
30. If he reoffends again within 2 year, this suspended sentence will be lifted and he will serve this sentence together with any other sentences imposed on him for his re-offending.
31. For completeness, I also order 80 hours of community work sentence.
32. He is to see a Probation Officer in the Correctional Department in 72 hours to discuss his community sentence work plan.
33. The defendant is to pay VT 2,000 prosecution cost in 7 days.
34. The Officer in charge of the Correctional Center in Luganville, is to release the defendant forthwith.

#### **G. Appeal**

35. He has 14 days to appeal to the Supreme Court if he is not satisfied with this sentence.

**DATED at Luganville, this 13<sup>th</sup> day of March 2024**

BY THE COURT



.....  
MOSES PETER  
Senior Magistrate