

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**

*(Criminal Jurisdiction)*

**Criminal Case No. 65 of 2008**

**PUBLIC PROSECUTOR**

**-V-**

**SAM KOILO**

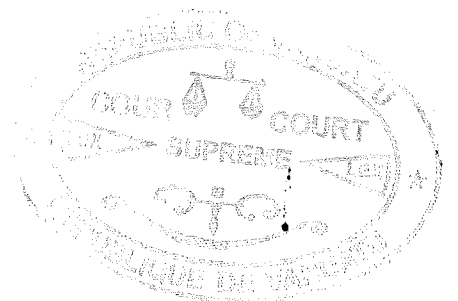
*Coram: Justice N. R. DAWSON*

*Date of Sentence: 11<sup>th</sup> December 2008*

*Counsel: Mr. Molbaleh for Public Prosecutor  
Mr. Bennet for Accused*

**SENTENCE**

1. Mr. Koilo you appear in Court today for sentencing on 4 charges of Sexual Intercourse Without Consent and one charge of Abduction. I note that according to the probation report you are 22 years of age but according to the certificate of your criminal convictions it would indicate that you are 29 years of age. I note that you served a sentence of imprisonment in 1994 for 4 weeks and therefore it is more likely that you are at least 29 years of age.
2. The facts of your offending are that in early hours of Saturday 5<sup>th</sup> April 2008 you and a group of approximately 10 people were in Fresh Wota Park. You came across the victim who was there, sitting with her boyfriend and another female friend. Your group beat up her boyfriend which caused him to run away and you grabbed the victim and took her away against her will. You threatened her with a knife and said you would stab her with it if she "*singaot*". During the

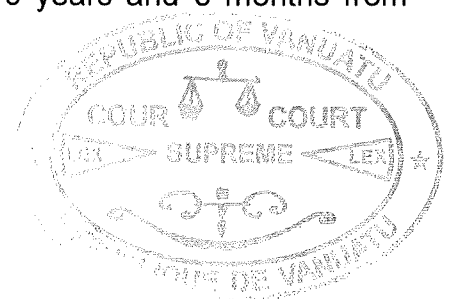


course of your abduction you raped her on 4 occasions. She did not consent to having sexual intercourse with you at any stage and during the course of the next few hours while you had abducted her you continued to make threats against her, by threatening to kill her and dump her in the river. The victim is an 18 year old girl and felt pain when you offended against her. Later that morning about 10 am she found herself in the position where she was able to escape and did so.

3. I note that you have 29 previous convictions on your record including one for rape. You have also escaped from custody in June of this year while awaiting trial. I have heard and read the submissions from your counsel and also those from the Public Prosecutor. I have also read the probation report that has been provided to the Court.
4. In sentencing you Mr. Koilo it is necessary for me to hold you accountable for the harm that you caused to the victim that night. I need to denounce your behaviour and make it clear in this Court yet again that it is not acceptable for men to force themselves sexually upon women in our community. Women have human rights the same as anybody else which is a statement of the obvious. You breached the woman's rights by forcing her to have sex against her will. She is entitled to say no and men should take that into account. It is necessary for me to impose a sentence that will act as a deterrent to you and others so this form of offending is deterred. Young women in our community are entitled to be protected by the law and a sentence needs to be imposed to reflect that need.
5. There are aggravating features to your offending. The first is you threatened violence on a number of occasions against the victim and also threatened her with a knife. At one stage you held that knife to her throat. Your repeatedly sexually assaulted her and I also need to take into account your previous and present convictions and note that you do have a previous conviction for rape.



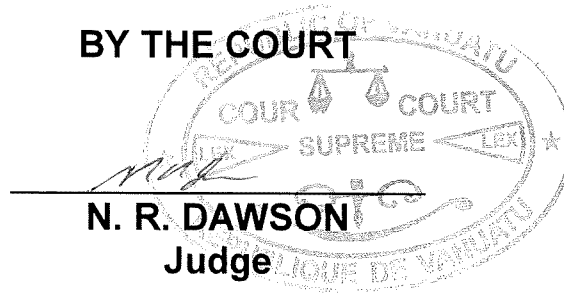
6. In mitigation, I understand that a custom ceremony has been performed between two communities because of your offending. That custom ceremony was conducted without the victim being there and also without you being there. I understand it was conducted by your family on your behalf. You yourself had not contributed anyway to the custom ceremony and the victim has not received any benefit personally from that custom ceremony.
7. Your probation report notes that you are not a first offender and you have served 2 terms of imprisonment. It notes that you escaped from custody on 20<sup>th</sup> June 2008 and also records a custom reconciliation ceremony has been performed.
8. In my view an appropriate starting point taking into account that the rapes were pursuant to abduction, is a sentence of imprisonment of 8 years. Because you repeated raped the victim and you have a previous conviction for the same offence, it is appropriate to increase that sentence to a term of imprisonment for 10 years.
9. I am not able to give you any credit for any mitigating factors. The custom ceremony was one conducted by your family and they are to be commended for that. In my view you yourself did not contribute to it in anyway, and nor did the victim obtain benefit from it. You are therefore convicted and sentenced to a term of imprisonment of 10 years of each of the charges of sexual intercourse without consent to be served concurrently on each other. For the charge of abduction you are convicted and sentenced to a term of imprisonment of two years also to be served concurrently as I have considered that to be an aggravating feature of the rape offences and increased the starting point of your sentencing because of that offence. I am informed that you have been in custody since 12<sup>th</sup> April 2008, you also escaped from custody on 20<sup>th</sup> June 2008 and it appear that you were recaptured some 30 days later. You have therefore served about 7 months of your sentence and you are therefore required to serve a sentence of imprisonment of 9 years and 5 months from today.



10. You have the right to appeal this sentence. When you appeal you must lodge a notice of appeal within 14 days of today's date.

**Dated at Port Vila, this 11<sup>th</sup> day of December, 2008**

**BY THE COURT**



**N. R. DAWSON**  
Judge