

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

Criminal Case No. 56 of 2005

PUBLIC PROSECUTOR

-V-

JOHNSON ROKOTY

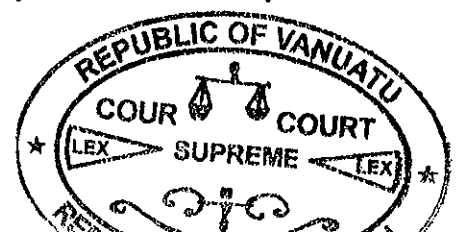
Coram: Justice N. R. DAWSON

Date of Sentence: 12th October, 2009

Counsel: Mr. B. Standish for Public Prosecutor
Mr. J. Kausiama for Accused

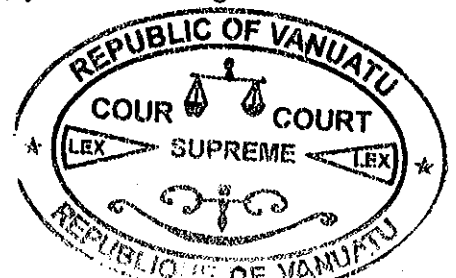
SENTENCE

1. Mr. Johnson Rokoty you appear in Court today for sentencing on the counts of Rape, Indecent Assault and Damage to Property. It needs to be noted that the maximum sentence for the offence of Rape is life imprisonment. It also needs to be noted that the count of Rape was a representative charge representing a course of conduct by you conducted over several months.
2. The facts of this matter are that at about June 2005 you met the complainant and formed a relationship with that person. On 5th September, 2005 you were at home, the place that you shared with the complainant, waiting for her to return from work. When she returned home you forced her to remove her clothes and forced her to lie down. You forced open her legs and physically beat her in order to have sexual intercourse with her without her consent. She resisted as best she could but she was overpowered by you. You penetrated her vagina with your penis without her consent. In respect to count 2 on numerous occasions during the course of your relationship you used foreign objects to penetrate the complainant's vagina without her consent. You used deodorant bottles and spray cans in this way. You also



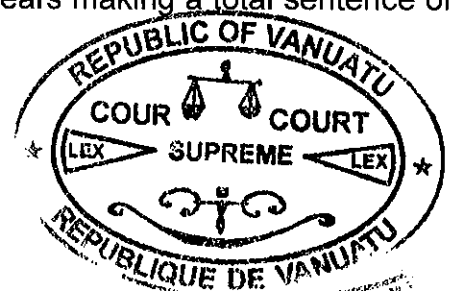
penetrated her vagina with your fingers on occasions without consent. On or about 12th September, 2005 you damaged the personal property belonging to the complainant. You damaged and destroyed her stereo equipment, cassettes, and compact discs which belong to her. At the time you damaged the property the complainant was visiting her father at his home. After destroying the property you sent the complainant a text message demanding she return home which she did, shortly after she reported the matter to the Police. I note at this point that you have previous conviction for Unlawful Entry.

3. Mr. Rokoty I have read the submissions of the Prosecution and the submissions made by the Public Solicitor on your behalf and I have also read your Probation Reports.
4. In sentencing you there are factors I need to take into account. The first is to hold you accountable for the physical harm and abuse you inflicted upon the victim. This Court also needs to take into account the interests of the victim of your offending who was terrorized and abused by you over a period of some months. Denunciation, deterrence and protection of the community are also factors the Court has to take into account in this type of offending. Women need to be protected from this type of callous and barbaric offending. Denunciation and deterrence are the predominant sentencing factors in my view. The gravity of your offending needs to be taken into account and your sentence needs to mark the gravity of your offending which is at a very high level in this particular case. It is therefore appropriate to consider a sentence near to the maximum for this offending.
5. There are a number of aggravating factors need to be taken into account. First of all a Warrant to Arrest had to be issued to get you to Court to be sentenced last year. You also used excessive violence during your offending against the victim. You also raped the victim repeatedly for months. You inserted foreign objects into the vagina of the victim causing her pain and injury. You also damaged the victim's property, your offending was cruel and



sadistic and an abuse of trust as that woman had been your partner living with you at that time. She was very vulnerable and she could not resist your violence towards her. This Court also needs to take into account the number and frequency of your offending against this victim.

6. In mitigation you entered guilty pleas at a relatively early stage but it does have to be noted that you avoided coming to Court to have sentencing imposed upon you. A Warrant to Arrest had to be made in order to get you to Court. Once you had finally come to Court you then tried to withdraw your guilty plea which indicates a lack of remorse. You apparently say you are remorseful but any remorse that you may have in my view is very limited and it has been noted in your Probation Report, that you still blame the victim. You have one previous conviction on your record although it needs to be noted that was for an unrelated matter. You have apparently offered compensation by custom but that has been declined by the victim which is understandable in the circumstances.
7. Your Probation Report is full of pre-sentence remorse and blaming the victim for your offending. The reality is that you are a man who has dominated and abused the victim at will for your own sadistic pleasure and with a total disregard for the victim's human rights. From submissions and information made available to this Court, I am told that the victim is very fearful of you and that is completely understandable. A long sentence of imprisonment is necessary to condemn the heinousness of your actions.
8. I am going to sentence you on the basis of treating the representative crime of rape as the lead offence with the remaining accounts being taken into account as aggravating factors to the lead offence. For the crime of rape the authorities in this jurisdiction indicate a starting point of 5 years should be adopted and it is adopted accordingly.
9. The aggravating features that I have mentioned are extreme and justify an increase to your total sentence of a further 5 years making a total sentence of

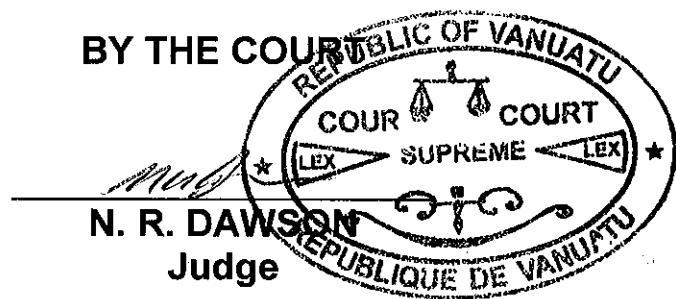


10 years. I have to take into account the mitigating factors that I have mentioned and you are convicted and sentenced to a term of imprisonment of 6 years and 8 months. For the charge of Indecent Assault you are convicted and sentenced to a term of imprisonment for 3 years to be served concurrently. For the charge of Damage to Property you are convicted and sentenced to a term of imprisonment of 3 months also to be served concurrently. You have already served a total of 1 years 7 months and 14 days in pre-sentence custody and therefore your sentence from today is effectively a further 5 years and 17 days.

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

Dated at Port Vila, this 12th day of October, 2009

BY THE COURT



N. R. DAWSON
Judge