

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

FELIX KAI

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mr Leon Malantugun for Public Prosecutor
Mr Kevin Nathan for the Defendant

SENTENCE

1. You have been charged with 2 counts of sexual intercourse without consent contrary to section 91 of the Penal Code Act Cap. 135. The maximum penalty for this offence is life imprisonment.
2. Your case warrants a custodial sentence. It is the only appropriate option for you. The principle in PP v. Keven Gideon (CRAC 3/2001) is clear that “... men who obtain sexual gratification at the expense of the weak and vulnerable” and “take advantage sexually of (them) forfeit the right to remain in the community.”
3. In PP v. Scott and Tula (CRAC 2/2002) the Court of Appeal said that “..... the rights of women must be recognized maintained and upheld”. Your victim was an expatriate volunteer attached to a school of a church organization in Luganville. She lived alone but that was no excuse for you to disturb her at 3 O'clock a.m, forced your way uninvited into her house, demanded sex of her threatening her with a knife. Then you walked her out of her house to a secluded spot and



forced yourself upon her. These are the aggravating features of your case.

4. The Court therefore sentences you to a term of 6 years imprisonment: that is after considering the aggravating features of your offending. The starting point for you is 5 years imprisonment.
5. The only mitigating factors of relevance for you is the fact that you co-operated very well with police on investigation. For that, the Court allows a reduction of 6 months.
6. You have been in custody for 1 month and 6 days from 3rd June 2010 when you forfeited bail. Therefore, a further 1 month and 6 days are deducted from 5 years 6 months of your term of sentence.
7. The balance you have to serve is 5 years 5 months and 24 days. This term of imprisonment covers both charges for which you were charged.
8. This term of imprisonment commences today 9th August 2010.
9. You have a right to appeal against this sentence within 14 days.
10. That is the sentence of the Court.

DATED at Luganville this 9th day of August 2010.

BY THE COURT


OLIVER A. SAKSAK

Judge

