

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

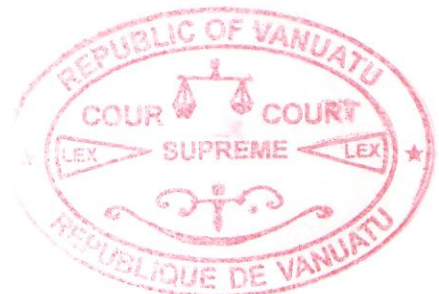
MATHEW WILLIE

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mr P. Wirrick for Public Prosecutor
Ms J. Tari for Defendant

SENTENCE

1. Mathew Willie on 7th September 2011 you admitted committing sexual intercourse without consent by pleading guilty to the charge laid under section 91 of the Penal Code Act Cap. 135. Conviction was entered against you and you were remanded in custody pending hearing of submissions as to Sentence. You have been in custody on remand since 14th August 2011.
2. The Court acknowledges written and oral submissions made by the Prosecutor and defence Counsel earlier today. The Court also acknowledges the pre-sentence report submitted by the Probation Service on 15th September 2011.
3. Both Counsel refer the Court to the same cases of PP v. Scott [2002] VUCA 29 and PP v. Ali August, Criminal Case No. 14 of 2000. The Public Prosecutor referred the Court to one other classic case of PP v. Gideon [2002] VUCA 7 which the Court finds extremely helpful in assessing penalty.

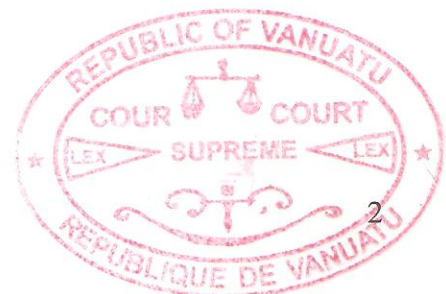


4. Your offending under section 91 of the Act is a very serious offending and attracts a maximum penalty of life imprisonment.
5. Following the guideline principles laid down in the Cases of Scott and Gideon, the only appropriate penalty for you today will be a custodial sentence.
6. The Court accepts that the starting point for your offending will be 5 years imprisonment. However, these are increased by 1 year and 4 months for the following 4 aggravating features:-

- (a) Your victim was a young girl of 18 years of age.
- (b) Sexual intercourse took place without any protection exposing the victim to infection and/or risk of pregnancy.
- (c) You carefully thought out the sexual attack.
- (d) There was a degree of force and violence used on the victim's body when she was punched at least 2 times during the offending, and the force and violence used resulted also in the bruises which the victim sustained to her private part as confirmed by the medical report.

Your total Sentence is therefore 6 years and 4 months imprisonment.

7. However, there will be some reductions made in respect of your three accepted mitigating factors. These are –
 - (a) Early guilty plea.
 - (b) Good cooperation with Police during investigation stages; and
 - (c) First-time offender with no previous criminal record.



8. According to Ali August, you are entitled to a 1/3 reduction for early guilty plea. Your total Sentence of 6 years and 4 months is therefore reduced to 4 years and 4 months.
9. There will be a further reduction by 4 months from the 4 years allowed for good cooperation and for being a first-time offender.
10. The final term of imprisonment for you is 4 years imprisonment. You will serve these at the Correctional Centre in Luganville.
11. You will be entitled to apply for parole after having served half of your 4 years term.
12. Your Sentence began on 14th August 2011 when you were first taken into custody on remand.
13. There is a right of appeal within 14 days if you so choose.

DATED at Luganville this 19th day of September 2011.

BY THE COURT


OLIVER A. SAKSAK

Judge

