

PUBLIC PROSECUTOR

V

POLO JACK

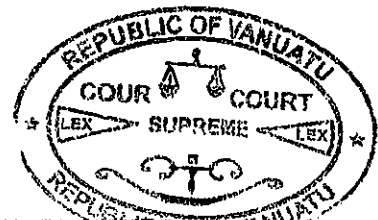
Sentence: ***2 August, 2013***

Before: ***Justice Robert Spear***

Appearances: ***Ken Massing for the Prosecution***
 Andrew Bal for the Defence

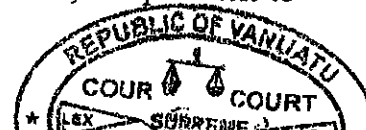
SENTENCE

1. Jack Polo, you are for sentence on one charge of having sexual intercourse without consent and an allied charge of intentional assault. You were found guilty of the charge of sexual intercourse without consent following a trial that took place over 18 and 19 June 2013. You pleaded guilty to the charge of intentional assault at the commencement of that trial. I note now that the maximum penalty for committing sexual intercourse without consent is life imprisonment and the maximum penalty for intentional assault under section 107(b) of the Penal Code is one year's imprisonment.
2. The circumstances of this offending are disturbing in the extreme. The complainant, the victim in this case, is your wife with whom you have four children. Clearly there were difficulties in the marriage and they saw your wife leave the matrimonial home at Teouma on occasions to stay with her sister in Fresh Wota. According to the probation officer, you consider that she left the home for relatively minor reasons and this annoyed you.



inevitable and because she feared that if she resisted she would receive a further beating from you.

8. You had sex with her without any regard to whether she consented or not. After you had had sex with her, the two of you then had to walk back to the main road - a distance of some five kilometres. The beating that your wife had received was so severe that she said she went "to sleep" on two occasions during that journey. She may have struggled, or the interpretation may have struggled, to convey exactly what she was saying but in view of the way that she subsequently presented in Court, it is clear that she must have collapsed on those two occasions rather than just felt tired and decided to have a sleep.
9. When you got to the main road, you hailed a bus to take you to your home at Teouma. When you arrived at your home, you went in ahead but your wife ran off down to the main road and got another bus to her sister's home in Fresh Wota. She arrived battered, bruised and bloodied. That was, of course, as a consequence of the serious and severe beating that you subjected her to. She was taken to a hospital that night.
10. When the complainant came to Court to give evidence she had to be helped into Court. The trial was supposed to start on 17 June 2013 but the complainant was too unwell that day to attend. The prosecutor at the trial, Mrs Harrison went out and met with her and explained to her that the Court would ensure that she was able to give her evidence with significant support. The beating had left her not just a distraught woman but a destroyed woman. She was here in Court with the support of her family. It required two men to help her to the witness chair that she sat in during the course of her evidence. She was unable to walk unaided. Her demeanour was such that she could hardly be heard and the Court interpreter (a very experienced Court interpreter) had to assist by placing her ear close by the complainant's mouth so that she could hear what the complainant was saying.
11. I do not have a medical report on the complainant and that is a pity. I had asked for one but apparently there was some issues to do with privacy and the requirement that the complainant's consent be obtained. Rather than delay matters, it is preferable to



difficult indeed for them to stand back after they had seen the harm that you had caused their sister.

17. You explain to the probation officer that you committed this offence as a result of jealousy as your wife (you put it) would abscond for months over small conflicts. That is of course no excuse.
18. This is very serious offending of its type. It requires a sentence that reflects the seriousness of the offending and what appears clearly to be the damage caused by you to your wife which are clearly long term injuries of either a physical or emotional nature; or probably both.
19. I adopt a starting point of eight years' imprisonment bearing in mind that this a case involving relationship between a man and a woman and thus you were a person that had a responsibility to her, a responsibility to care for her and keep her safe as a member of your family and you failed completely in that respect.
20. There are other aggravating features. It was certainly offending that had a degree of planning although perhaps the decision to abduct her was somewhat on the spur of the moment. However, there is no doubt that your decision to dupe her in to getting into the taxi was to enable you to take her away to an isolated spot and to beat her. I am in no doubt that when you left Port Vila for Shark Bay you intended to subject her to a serious beating for having the temerity to stay away from your home and from you.
21. The abduction, the deception, and the violence that preceded the rape warrant an uplift of a further four years.
22. While there is a separate offence of intentional assault that can be dealt with more as an aggravating feature to the rape.
23. For these reasons, I consider that an offending end point of 12 years' imprisonment should be adopted.

