

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

Criminal
Case No. 20/716 SC/CRML

BETWEEN: Public Prosecutor

AND: Moffet Jackson
Defendant

Coram: Justice Aru

Counsel: Mr. K. Massing for the Public Prosecutor
Mr. H. Vira for the Defendant

SENTENCE

Introduction

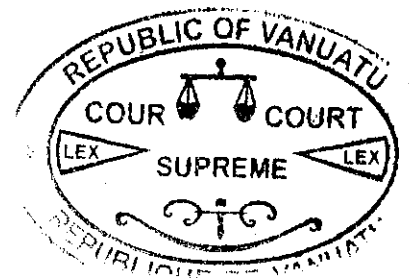
1. Mr Jackson Moffet you are in Court today to receive your sentence. You were charged with two (2) counts of sexual intercourse without consent. The maximum penalty for this offence is imprisonment for life. You pleaded guilty to those charges and I convict you accordingly.

Facts

2. The prosecution's brief of facts summarises the facts of the offending. These are not disputed. The complainant and yourself live in the same vicinity of Malapoa white wood in Port Vila and that is where the offending occurred.

First incident

3. On 29 November 2019 in the evening, the complainant and her mother went to sell food at the women's food stall. The complainant wanted to return home when she met you on the road. You then held her right hand and pulled her into the bush and told her you wanted to have sex with her. The complainant wanted to scream but you blocked her mouth with your hand. You removed her clothes and yours down to your knees and had sexual intercourse with her and ejaculated inside her.
4. The complainant's mother looked for her and called out for her but you threatened her with a knife if she answered. She felt pain in her vagina after the incident but when she returned home she did not tell her mother.



Second incident

5. On the 30 November 2019 the very next day the complainant was at the food stall again with her mother in the evening selling food. She felt sleepy then told her mother she was going home. On her way home you grabbed her hands and pulled her into a kitchen belonging to another family. Whilst inside the kitchen you removed the complainant's clothes and had sex with her then you left. The complainant went home but did not tell her mother. Some days later the matter came to light when you were reported to the Police.
6. You were arrested and after being cautioned and interviewed you admitted the offending.

Aggravating factors

7. There are a number of aggravating factors to the offending. There is an element of planning as the offending occurred at night on both occasions. Force and threats were used to prevent the complainant calling out for help. You threatened her with a knife. You had unprotected sex with her which exposed her to the risk of getting pregnant and contracting sexually transmitted diseases. And finally the offending was repeated.
8. The offence of sexual intercourse without consent or rape is a very serious offence. When determining a starting point of your sentence I am guided by what the Court of Appeal said in **PP v Scott** [2002] VUCA 29].
9. You used a knife to threaten the complainant and repeated the offending. I therefore adopt a starting point of 8 years imprisonment to be concurrent on both charges.

Personal factors

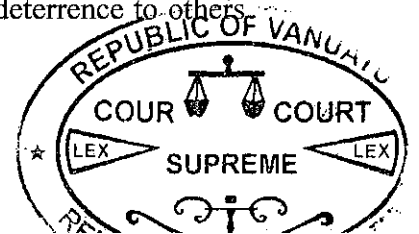
10. No presentence report has been filed as directed but Counsel on your behalf has submitted that at the time of the offending you were 25 years old. You are single and you work at the Au Bon Marche to support your parents and siblings.
11. You were remanded on 11 December 2019 and remain so until today.

Guilty plea

12. You admitted the offending to the Police and also entered guilty pleas on your plea day. You pleaded guilty at the first available opportunity therefore your sentence will be reduced by the full one third discount.

End sentence

13. This case calls for an immediate custodial sentence to emphasize public disapproval and to mark the gravity of the offending. It should serve as a deterrence to others.



and to protect women and girls from such behaviour. Finally the sentence I impose today is punishment for your offending.

14. Your end sentence is rounded of to 5 years imprisonment to be concurrent for both charges and is effective from 11 December 2019 when you were first remanded into custody.
15. You have 14 days to appeal if you are not happy with the decision.

DATED at Port Vila this 10th day of June, 2020

BY THE COURT

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D. Aru
Judge

