

**BETWEEN: The Public Prosecutor**

**AND: Alick Nulak**

**Defendant**

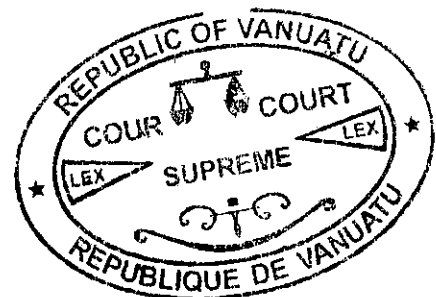
**Date of Plea:** 22<sup>nd</sup> July 2020  
**Date of Sentence:** 9<sup>th</sup> September 2020  
**Before:** Justice Oliver Saksak  
**In Attendance:** Mr Philip Toaliu for Public Prosecutor  
Mrs Kylie Karu for the Defendant

---

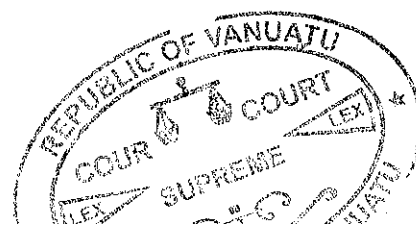
**SENTENCE**

---

1. Alick Nulak pleaded guilty to one charge of sexual intercourse without consent on 22 July 2020. He is here for sentence today.
2. Pursuant to sections 90 and 91 of the Penal Code Act [CAP.135] (the Act) this is a very serious charge as it carries the maximum penalty of life imprisonment.
3. The defendant was 23 years old in 2017 when the offending occurred. He is now 26 years old. His victim was his first cousin. On 24<sup>th</sup> December 2017 the complainant finished work at Jin Feng Store. It was Christmas Eve. She met up with the defendant and some other relatives. They all went into town. Later they boarded a bus and went home to Black sands. On the way the defendant tied the victim's hands together with his hand with a scarf. The victim's dad saw this and asked why it was so. The defendant told him he was afraid the victim might get lost in the midst of the crowd at the time. On their way home the defendant told the victim he liked her. The victim reminded the defendant that they are first cousins and it was not proper to do this. The defendant ignored her advice and said he did not care about the family relationship.



4. In the house the defendant asked for sex but his request was declined. The defendant then grabbed her by the neck and forced her onto a bed. He forcibly removed her clothes and had sexual intercourse with her. He blocked her mouth with his hand so she could not call out. The victim struggled to get free but could not.
5. The victim left the house the next day to live with her uncle at Erakor for fear of what might happen to her if the families find out what happened between her and the defendant the night before.
6. The complainant made a statement to the police only on 16<sup>th</sup> April 2020 following which a medical report was made on 1<sup>st</sup> June 2020. There was normal findings as the incident complained of occurred more than a year ago.
7. The aggravating features of the offence are that-
  - (a) There was a serious breach of trust, through total ignorance.
  - (b) There was a degree of planning involved.
  - (c) There was a struggle and violence used.
  - (d) The offending occurred within the confines of the family home where the victim was supposed to be safe.
8. There are no mitigating circumstances. Taking the totality of the case, I set the starting sentence for the defendant at 6 years imprisonment.
9. In mitigation I consider his guilty plea and allow 1/3 reduction reducing his start sentence by 2 years.
10. His personal factors are that he is now 26 years old. He left school at Year 9. He was employed by Chen Store at the time of offending. He has skills in gardening and construction. He does not smoke or consume kava and alcoholic drinks. He has performed custom ceremony to the victim and her relatives. He has no previous criminal record.
11. For all these factors together I allow a further deduction of 6 months from his sentence of 4 years. His end sentence is therefore 3 years and 6 months.



12. Alick Nulak you are sentenced to an end sentence of 3 years and 6 months imprisonment without suspension.

13. Your sentence is backdated to 16<sup>th</sup> April 2020 when you were first remanded in custody.

14. There is a right of appeal against this sentence within 14 days if you do not agree with it.

DATED at Port Vila this 9<sup>th</sup> day of September 2020  
BY THE COURT

  
OLIVER.A.SAKSAK  
Judge

