

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

**Criminal**  
**Case No. 20/313 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**JONAS GEORGE**

*Date:* 16 April 2020  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Mr K. Massing  
Defendant – Mrs K. Karu

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**SENTENCE**

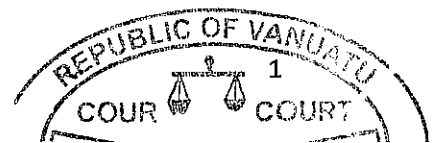
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A. Introduction

1. Mr George pleaded guilty on 3 March 2020 to one charge of sexual intercourse without consent.
2. The maximum sentence for this offence is life imprisonment. It is a serious offence.
3. I convict Mr George on his plea and the summary of facts.

B. Facts

4. On 3 February 2018, the complainant Ms M and her aunty went to a shop at Blacksands area, Port Vila, for Ms M to buy credit for her phone. As Ms M was about to hand her payment to the shopkeeper, Mr George arrived and told the shopkeeper to use Ms M's money to pay for his cigarette. She did not want to but Mr George was insistent and she was scared that he would hit her. So she told the shopkeeper to use the money for his cigarette. Then she told her aunty for them to leave as her money for phone credit had been used for Mr George's cigarette.
5. As they turned to leave, Mr George grabbed Ms M's top. He told her that Ms M's de facto partner wanted to see her. She told him that if her de facto partner wanted to see her, then he should come and see her. Mr George then said if she didn't follow him to her

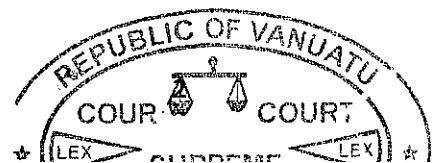


partner, that her partner would come and beat her up in front of the other women there. Ms M felt scared and told her aunty that she had to go and see her partner.

6. Mr George led Ms M away to a secluded spot. He then told her she would have to wait as he needed to speak with her partner. She wanted to run away but he grabbed her top and told her not to move or go away. She waited but did not see her partner. She wanted to leave but Mr George held her firmly so that she could not run away.
7. Mr George proceeded to push her to the ground, scratch her on the neck and hold her tightly by the neck. He told her that if she called out for help, 'bae mi kilim yu ded'. He told her to remove her clothes. She refused. He punched her in the face and bit her back. She fell into a banana patch near a bush toilet. Ms M called out for help. He pushed both hands into her mouth and opened up her mouth, while kneeling her in her stomach with both knees. He said to her that if she called out for help or made any noise, that he would break her mouth.
8. He removed her clothes while also punching and biting her. He proceeded to have full sexual intercourse with her. Ms M kicked and tried to push Mr George away but he held her tightly by the neck. When he finished, he released his hands from her neck. She grabbed her clothes and ran to save herself.
9. She ran straight to her aunty and told her what Mr George had done to her. Her face was already swollen from the injuries inflicted by Mr George. She also told her uncle. They all went to the police station and then to the hospital where Ms M was hospitalised for three days. She could not chew due to the injuries to her head, taking soft food and liquids only. She had sustained swelling, tenderness, bruises, bite marks and lacerations to her face and head. She had an abrasion on the left side of her neck. Ms M had bite marks, bruises, swelling and abrasions on her back. Spermatozoa was identified on her vaginal swab.

### C. Aggravating Factors of the Offending

10. There are a number of aggravating factors to the offending:
  - Firstly, the violence used was over and above the force necessary to commit harm. Mr George used violence to keep Ms M with him and to effect the rape.
  - Secondly, the way in which Mr George held Ms M's mouth to prevent her from calling out.
  - Thirdly, the harm suffered by the victim. Ms M's injuries inflicted by Mr George were so severe that she was hospitalised for 3 days. She suffered multiple physical injuries, including to her face, head, neck and back. In hospital, Ms M could not eat solid food due to the injuries she had sustained to her head.
  - Fourthly, the offending involved unprotected sex which exposed Ms M to the risk of pregnancy and/or sexually transmitted infection.



- Fifthly, the age of the victim. Ms M was just 16 years old.
- Sixthly, the threats made in order to frighten the victim. Mr George threatened Ms M twice not to call out for help or make a noise, or he would kill her or break her mouth.
- Seventhly, Mr George was intoxicated at the time of the offending.
- Lastly, the offending was carefully planned. Mr George lied to Ms M that her de facto partner wanted to see her. He induced her to a secluded spot where he then forced her to have sex without her consent.

D. Mitigating Factors of the Offending

11. There are no mitigating factors relating to the offending.

E. Offending Starting Point

12. I consider that the aggravating factors set out above require a sentence start point of 10 years imprisonment.

F. Personal Factors

13. Mr George was 17 years old at the time of the offending. He has no previous convictions. Defence submits that going directly into correctional services custody prior to sentence has had a strong effect of Mr George and that he realises his own mistake.

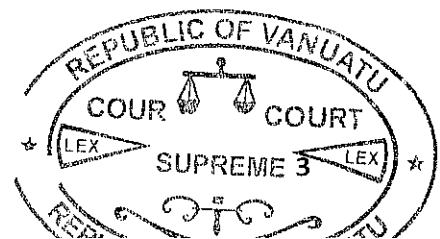
14. The pre-sentence report writer reports that Mr George's family has undertaken a custom reconciliation ceremony involving some mats, VT5,000 and a head of kava as a sign of apology and compensation to Ms M's family. Mr George was unable to participate, which reduces the mitigation available.

15. For Mr George's personal factors I reduce the start point of his sentence by 2 months imprisonment.

16. For Mr George's youth, I reduce his sentence by a further 18 months imprisonment.

G. Deduction for Guilty Plea

17. Mr George's pleaded guilty at the first opportunity. Defence submits that he cooperated well with the Police, that he is remorseful and pleaded guilty at the first reasonable opportunity. I do not accept his stated remorse but I accept that his plea has spared Ms M the ordeal of having to testify and give her evidence in a roomful of strangers. For his plea I deduct a further 33%.



H. End Sentence

18. Taking all of those matters into account, the end sentence that must be imposed is one of 5 years 7 months imprisonment.
19. The sentence is to commence from 23 July 2019 when Mr George was remanded in custody.
20. The Court must consider and may impose a sentence of compensation if an offender has, through or by means of an offence of which he is convicted, caused a person to suffer injury. I am not imposing a sentence of compensation on Mr George as I have no information as to his means to pay such compensation so assume he does not have any.

I. Suspension

21. An immediate custodial sentence must be imposed. This is to mark the gravity of the offence, to emphasize public disapproval, to serve as a warning to others, to punish the offender and last but not least, to protect women. As a young man, Mr George does have prospects of rehabilitation. I hope he will use the time in custody to attend the programs offered by Correctional Services to that end.

J. Other

22. Mr George has 14 days to appeal this sentence if he disagrees with it.
23. The name and details leading to the identification of Ms M are permanently suppressed.

**DATED at Port Vila this 16<sup>th</sup> day of April 2020  
BY THE COURT**

*V.M. Trief*  
.....  
V.M. Trief  
Judge

