

PUBLIC PROSECUTOR

v

SAM JIMMY NATIANG

Date: 25 May 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr D. Boe
Defendant – Mr R. Willie

SENTENCE

A. Introduction

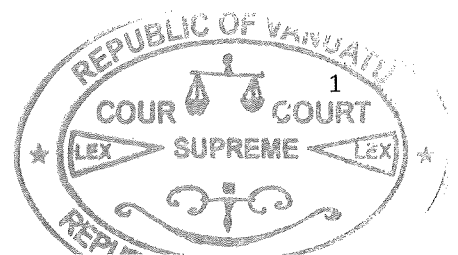
1. Mr Natiang pleaded guilty to one charge of act of indecency without consent. Mr Natiang is convicted on his plea and the admitted facts.

B. Facts

2. The complainant is married to Mr Natiang's older brother. At about 2pm on 31 December 2020, she was awoken in her kitchen by Mr Natiang touching her breast through her clothing. He demanded sex from her. She refused. He left.
3. Mr Natiang made full admissions to the Police.

C. Sentence Start Point and Personal Factors

4. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
5. The maximum sentence provided in s. 98(a) of the *Penal Code* [CAP. 135] for an act of indecency without consent is 7 years imprisonment.
6. There are no mitigating factors related to the offending. The offending is aggravated by:
 - The breach of trust involved as Mr Natiang is the victim's brother-in-law; and
 - The offending occurred at the victim's home where she was entitled to feel and to be safe and secure.



7. *Tangiat v Public Prosecutor* [2014] VUCA 15 and *Wenu v Public Prosecutor* [2015] VUCA 51 are relevant guideline judgments. However, in light of the aggravating factors set out above, I consider 16 months imprisonment is the appropriate sentence start point.
8. A 33% reduction is made for Mr Natiang's early guilty plea.
9. Mr Natiang is 31 years old, is in a de facto relationship and has four young children. His partner is expecting their fifth child. He has no previous convictions. Mr Natiang's chief and family performed a custom reconciliation ceremony on his behalf with the complainant and her family involving a fine of a pig, a mat, a stem of kava, 6-7 yams and VT10,000 cash. I reduce the sentence by 3 months for Mr Natiang's personal factors.

D. End Sentence

10. Mr Natiang is sentenced to 8 months imprisonment to run from 12 April 2021 to take into account the time served in custody from 6 January 2021 to 18 February 2021 (44 days).
11. The sentence is suspended for 2 years in view of the facts falling towards the lower end of the scale for this offence, Mr Natiang's past clean record and prospects of rehabilitation.
12. In addition, Mr Natiang is ordered to complete 100 hours of community work.
13. Mr Natiang has 14 days to appeal the sentence.

**DATED at Luganville this 25th day of May 2021
BY THE COURT**


.....
Viran Molisa Trief
Judge

