

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

**Criminal  
Case No. 21/1668**

**BETWEEN: Public Prosecutor**

**AND: Zebedee Obed**  
*Defendant*

**Coram: Justice Aru**

**Counsel: Ms. M. Taiki for the Public Prosecutor**  
**Mr. J Garae for the Defendant**

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## **SENTENCE**

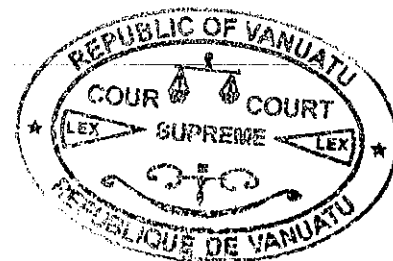
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### **Introduction**

1. Mr. Zebedee Obed pleaded guilty to a single charge of sexual intercourse without consent. Upon his re arraignment the charge of abduction was nollied by the prosecution.

### **The facts**

2. On 31 July 2020 to 1 August 2020 on the Island of Mota at Lotawan village around midnight the complainant was with her cousin and a number of friends attending the closing of 30 July celebrations. The complainant and her friends were dancing near the stage. It was raining. The complainant and her friends went to another stage near the football field to wash off the mud from their feet. The defendant then approached the complainant. The defendant forced the complainant to follow him then removed her clothes and forced her to lie down on the ground .He opened the complainant's legs and had sexual intercourse with her by inserting his penis into her vagina.



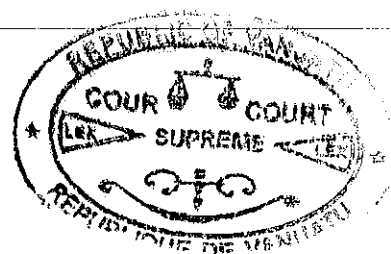
3. Later the defendant took the complainant back to her village and left her half way on the road to return to her family. When the matter was reported, the Police cautioned and interviewed the defendant. He admitted the offending to the Police.

### Starting point

4. The starting point of sentence is determined by considering the maximum sentence available for the offence and taking into account any aggravating or mitigating factors of the offending.
5. Sexual intercourse without consent is punishable by a maximum sentence of life imprisonment. There are a number of aggravating factors of the offending. There is an element of planning involved and the defendant had unprotected sex with the complainant exposing her to the risk of unwanted pregnancy and sexually transmitted diseases. Furthermore the incident will have some psychological impact on the complainant for some time as she is a young girl of around 18 years.
6. There are no mitigating factors of the offending.
7. The starting point of sentence for rape or sexual intercourse without consent where there are no aggravating factors is 5 years imprisonment. Where there is an aggravating factor the sentence will be higher than the starting point. (*Public Prosecutor v. Ali August [2000] VUSC 73* and *PP v Scott Criminal Appeal Case No 2 of 2002*).
8. There are number of aggravating factors present in the defendant's offending. The starting point of sentence is 7 years imprisonment.

### Personal factors

9. The defendant entered his guilty plea before the trial started when he sought to be re arraigned. The sentence is reduced by 25 percent for the late guilty plea.
10. The Probation Officer has provided a Same Day Report as directed and I thank him for that. The Report states that the defendant is a first time offender with no previous convictions.
11. The defendant is 24 years old and single. He completed his education in Year 9 at Arep Junior Secondary School due to financial difficulties. His chief speaks highly of him as a committed and active member in his community and as a member of the Anglican Church. He earns his income by growing and selling food crops and kava at the Sola Market.



12. The Report also notes that the defendant performed custom reconciliation with the complainant and her relatives by giving VT 20,000 cash, 15 yams, a kava stem and a bucket of kava juice. This was accepted by the complainant.
13. The defendant was remanded in custody for roughly 2 months before being bailed.
14. The sentence is further reduced by 14 months for personal factors and time spent in custody.

**End sentence**

15. The end sentence is 3 years and 8 months imprisonment effective from today. This sentence is to mark the gravity of the offending and is punishment for the crime. It is also to serve as a deterrence to the public at large and any future offending by the defendant.
16. The defendant has 14 days to appeal if he disagrees with the decision.

**DATED at Sola, Vanualava this 16<sup>th</sup> day of September, 2021**

**BY THE COURT**

.....  
**D. Aru**  
**Judge**

