

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

Criminal  
Case No. 22/2207 SC/CRML

**BETWEEN:** Public Prosecutor

**AND:** Francois Barako  
Accused

*Date of Sentence:* 23 September 2022

*Before:* Justice EP Goldsbrough

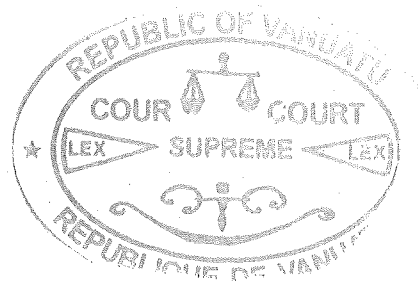
*Appearances:* Taiki, M for the Public Prosecutor  
Garae, J for the Accused

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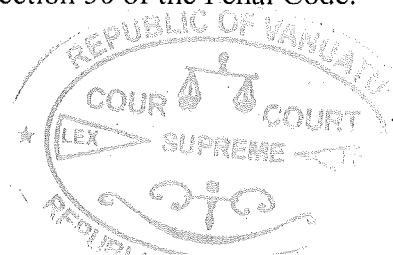
**SENTENCE**

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1. Francois Barako is a taxi driver. He had a passenger in his taxi on 14 November 2021 who he tried to take advantage of. He touched her breasts and tried to force her to take his penis into her hands. He pleaded guilty last week to committing an act of indecency without the consent of his victim.
2. The victim was able to get out of the taxi and run for help. Another driver, this time of a public service bus, was able to help her and call for the police. It is to his great credit that the other public service vehicle driver took the time to look out for this victim and assist her to identify and locate the offending taxi and its driver.
3. That driver is to be commended for his actions in helping this victim




4. The offence of committing an act of indecency without consent carries a maximum penalty of seven years. It is taken into account when arriving at the sentencing start point, together with factors of aggravation of the offence itself.
5. Making this offence worse is the profession of taxi driver. People get into a taxi expecting to be taken where they want to be without interference and certainly without interference like this. This driver was in his fifties and his victim seventeen years of age. He locked the doors of his vehicle to make sure his victim was captive. How frightening that must have been for his seventeen-year-old victim.
6. This court sets a starting point of two years imprisonment for this offence.
7. The defendant pleaded guilty to his offence. Unfortunately, he put forward the consumption of alcohol as an excuse for his behaviour. Yet at the same time he is driving a taxi. He should not be allowed to drive a taxi again given this offending and his admitted driving under the influence of alcohol as a taxi driver.
8. He is a father and a grandfather. It is to be questioned how he would feel were his grandchildren to be abused in this way.
9. Two years imprisonment is reduced to sixteen months taking note of the guilty plea. He has been in trouble before and so cannot receive further discount on account of good character although that is not a reason to increase the sentence.
10. The court has considered whether the sentence of imprisonment should be suspended. The guidance from the Court of Appeal suggests that there must be exceptional circumstances to warrant suspension where sexual offences are concerned and there is nothing exceptional here. This offender knew what he was doing, chose his victim for her vulnerability and effectively held her to ransom by locking her in his motor vehicle, a passenger in his taxi at that. The sentence should not be suspended.
11. The sentence for this offence is sixteen months imprisonment. Mr Barako has appeared today in answer to his bail and has not previously been remanded in custody since his conviction and is therefore entitled to 14 days before his sentence of imprisonment should start. He must report to the Correctional services within those fourteen days and by the latest on 7 October 2022 to comply with section 50 of the Penal Code.




12. Mr. Barako has the right to appeal against this sentence but must do so within 14 days from today.

Dated at Luganville this 23<sup>rd</sup> September 2022

BY THE COURT

  
Justice EP Goldsbrough



The seal of the Supreme Court of Vanuatu is circular. It features a central emblem with a scale of justice and a book. The text 'COUR SUPREME' is written in the center, with 'COURT' on either side. The outer ring of the seal contains the text 'REPUBLIQUE DE VANUATU' at the bottom and 'R.E.' at the top. There are also small symbols on the sides of the seal.