

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

**Criminal
Case No. 21/3868 SC/CRML**

PUBLIC PROSECUTOR

v

JOHN HOMMES

Date of Trial: 31 January 2023
Before: Justice V.M. Trief
In Attendance: Public Prosecutor – Ms G. Kanegai
Defendant – Mrs K. Karu
Date of Decision: 9 February 2023

VERDICT

1. Mr Hommes is charged with unlawful sexual intercourse with a child under 13 years of age (Charge 1) and act of indecency without consent (Charge 2).
2. The Prosecution bore the burden of proof and to the standard of proving its case beyond a reasonable doubt. The Court must be left sure of guilt. That is, the Court must be brought to the point where a reasonable doubt does not exist: *PP v Elman* [2011] VUSC 75 at para. 3 per Spear J.
3. Having heard the evidence in this case, I am not satisfied that the Prosecution has proved Mr Hommes' guilt beyond a reasonable doubt that 9 years ago, when the complainant was 10 years old, he committed unlawful sexual intercourse with her. Even if she did not tell anyone when she was 10 years old of the alleged offending, no witness was called to tell the Court when she did tell them and what she said. None of the friends she stayed with at City Lodge were called, nor her boyfriend, nor her brothers. I was left with a doubt as to Mr Hommes' guilt on the evidence of the single witness.
4. I was also left with a doubt as to the charge of act of indecency without consent. I was not sure that such an act occurred. Again, no other witness was called that could have told the Court what the complainant told them and what she said to them.
5. As I am left with those doubts, I find Mr Hommes not guilty. He shall be deemed to be innocent of the charges and is acquitted.

DATED at Port Vila this 9th day of February 2023

BY THE COURT


Justice Viran Molisa Trief

