

**PUBLIC PROSECUTOR v ALEX MOLI**

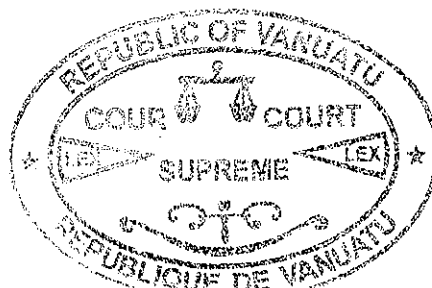
**Date of Sentence:** 2 May 2023  
**Before:** Chief Justice V. Lunabek  
**Appearances:** Mr D Boe for the State  
Ms L Bakokoto for the Defendant

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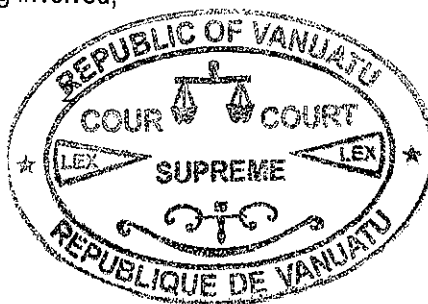
**SENTENCE**

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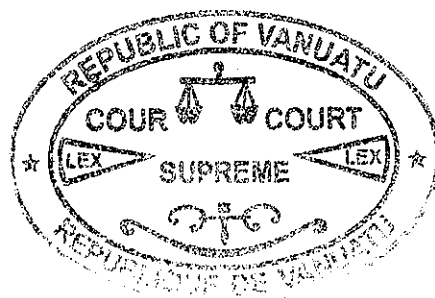
1. Alex Moli, you appear today for sentence. You are 40 years of age at the time of your offending.
2. On 21 November 2022, you entered a guilty plea to one count of threats to kill a person (Count 2) and not guilty to a count of sexual intercourse without consent (Count 1).
3. ~~The prosecutor was pressing for a trial on Count 1. A trial was set in December 2022 by a Supreme Court judge but it did not eventuate. Another trial on this count was set before another judge of the Supreme Court on 22 February 2023, the trial could not take place as the prosecution have not been in touch with their witnesses. A trial on this count was set on 26 April 2023. On 26 April 2023, you changed your previous not guilty plea and you entered a guilty plea on that count 1 of sexual intercourse without consent.~~
4. The complainant was a student at year 13 at Hoghabour School at the time of the offending. She was 19 years old at that relevant time.
5. The complainant made a report to the police straight after the incident that she was raped by you inside your house in Luganville.
6. On 10 April 2022, the complainant went to Sunshine Store in town, opposite the Nemo Motel. You then called her and told her that you and your friends were having beer at the Aqua area and you so invited the complainant to join you. The complainant then walked down to Aqua.



7. At the Aqua, you approached the complainant and spoke with her and invited her to follow you to your house. The complainant followed you to your house where she drank 3 beers. As it was getting late in the afternoon towards 5:00pm, the complainant wanted to leave to return home.
8. You refused to let her go and asked her to have sex with you inside your bedroom. The complainant refused and so you got angry and took a small pocket knife from the cupboard. You then threatened the complainant that you would cut her with the knife and kill her.
9. The complainant was afraid of you, so she agreed to have sex with you. You removed the complainant's clothes and threw them under your bed. Whilst you were penetrating the complainant's vagina, the complainant resisted and eventually managed to push you out. She then wore her clothes and pushed you out of her way. She ran into the glass door causing the glass door to break and cut her on her right elbow and on the right side of her face.
10. The complainant then headed straight to the police station and reported the matter to the police. As she was bleeding from the cuts, the police assisted her and drove her to the hospital to seek medical attention.
11. The medical report reveals injuries that she sustained as follows:
  - (a) 10cm vertical laceration on right side of face; and
  - (b) 15cm vertical laceration on right elbow.
12. In the records of interview (at question 28) you admitted that you forced the complainant to have sex with you and threatened to cut her with the knife.
13. You were then arrested and remanded in custody.
14. The maximum sentence for an offence of sexual intercourse without consent contrary to Section 91 of the Penal Code is life imprisonment. The maximum sentence for threat to kill a person is 15 years imprisonment.
15. These two offences are serious offences as reflected by their respective maximum sentence imposed by law I set out above.
16. In this case, the seriousness of the offences are aggravated by the following factors:
  - (a) A weapon was used to commit the offence (small knife);
  - (b) There was a degree of planning involved;



- (c) There was risk of unprotected sex which can lead to sexual transmitted disease and teenage pregnancy;
  - (d) The force was used upon and above the complainant (victim) by you;
  - (e) The age difference between you and the victim;
  - (f) The effect upon the victim whether physical or mental;
  - (g) She sustained physical injuries to escape from your offending;
17. There was no mitigating features identified for the offending.
18. The prosecution submitted a start point sentence between 7 – 8 years imprisonment
19. The defence counsel referred to the case of PP v Estapas [2022] VUSC 84 as a comparable case to the present one. In PP v Estapas [2022], the defendant was convicted of one count of sexual intercourse without consent. The defendant was 45 years old whilst the complainant was 22 years old. The defendant blocked the complainant's way on her way back after dropping off her sister's children at school. The defendant then demanded the girl to follow him into the bushes to watch a movie on his phone. After showing the complainant a pornographic movie, he persistently forced her to have sex with him. The defendant was holding a bush knife in his hand which made the complainant afraid. The defendant then removed the complainant's shirt and panty and penetrated her vagina without her consent. The Court then adopted a start point sentence of 8 years imprisonment. After appropriate deductions, the Court imposed an end sentence of 5 years 4 months and 24 days imprisonment.
20. In the present case, I adopt a start point sentence of 7 years imprisonment in Count 1 for sexual intercourse without consent as the leading offence. I impose a start point sentence of 3 years imprisonment for the offence of threats to kill a person in count 2. The two sentences will run concurrently. Your total start point sentence is 7 years (84 months) imprisonment.
21. In mitigation, I consider and take into account that you are a first time offender. You pleaded guilty at the first opportunity given to you on the count of threats to kill a person (count 2) but you maintained your innocence and pleaded not guilty to the count of sexual intercourse without consent (count 1). So a trial was required. At the date of your trial, you changed your "not guilty plea" into a guilty plea. You are not entitled to a full one third sentence deductions. I allow 25% discount for your guilty plea. Your sentence is reduced to 63 months. I allow another 3 months for other mitigating factors contained in your pre-sentence report. Your sentence is further reduced to 60 months (5 years) imprisonment.
22. I take into account that you were first arrested and detained in custody on 7 June 2022 and you were released on bail on 19 August 2022. This represents a pre-custodial period of 74 days that you have already served. I am informed that you were arrested and detained again in custody for another




offence. This is a different matter. In the present case, your end sentence is 4 years 2 months and 4 days. Your sentence shall start today 2 May 2023.

23. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts today.

**DATED at Luganville, Santo, this 2<sup>nd</sup> day of May, 2023**

**BY THE COURT**

  
Chief Justice V. Lunabek

