

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

Criminal  
Case No. 19/1554 SC/CRML

BETWEEN: Public Prosecutor

AND: Jean Gabriel lamak  
Defendant

Date: 17 December 2019  
Before: Justice V.M. Trief  
Counsel: Public Prosecutor – L. Lunabek  
Defendant – Mr H. Rantes

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VERDICT

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1. Mr lamak is charged with one count of sexual intercourse without consent.
2. The sole issue in this case is of consent. That is an issue of the facts.
3. The Prosecution bears the burden of proof and to the standard of proving its case beyond a reasonable doubt. As Spear J stated in *PP v Elman* [2011] VUSC 75 at para 3:

*This charge of sexual intercourse without consent requires proof beyond doubt. Proof beyond reasonable doubt simply means that the court is left sure of guilt. It does not require proof to an absolute certainty. It simply requires the court to be brought to the point where a reasonable doubt does not exist.*

4. Having heard the evidence in this case, I am not satisfied that the Prosecution has proved beyond a reasonable doubt that there was no consent.
5. As I am left with a doubt as to the issue of consent, I find Mr lamak not guilty. He shall be deemed to be innocent of the charge and is acquitted.

DATED at Isangel, Tanna this 17<sup>th</sup> day of December 2019  
BY THE COURT

  
V.M. Trief  
Judge

