

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

**Criminal**  
**Case No. 20/92 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Nauka Nanua**  
**Defendant**

*Date:* 11 May 2021  
*By:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr C. Shem for the Applicant  
Mr L. Napuati for the Respondent

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**Sentence**

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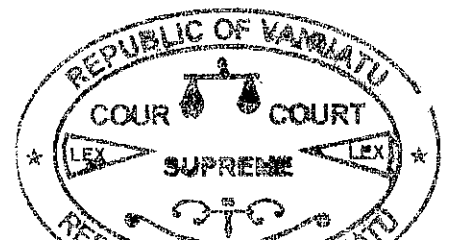
A. Introduction

1. Mr Nanua pleaded guilty to 2 charges of sexual intercourse without consent.

B. Facts

2. On the evening of 27 December 2019, Mr Nanua arranged for someone to pass a message to MN, so that she was instructed to go to a designated meeting place. She was 15 years old at the time. Once she was there, she was suddenly grabbed from behind. MN was told to not scream out or she could be killed. She was then dragged into a bush and undressed. She resisted but was over-powered. Mr Nanua then penetrated her vagina with his penis. He later instructed her to tell no one what had occurred.
3. At around 9pm on 31 December 2019, MN was at her aunt's home. When there was no one else around, Mr Nanua entered and grabbed MN. Again he forced her to have sexual intercourse with him against her will.
4. When interviewed by the police, Mr Nanua responded that MN had consented on both occasions.

C. Sentence Start Point

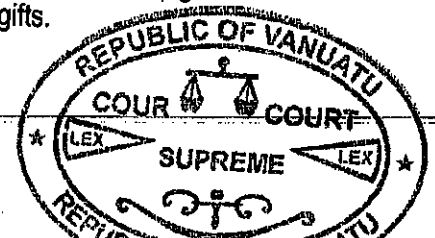


C. Sentence Start Point

5. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
6. The maximum sentence for sexual intercourse without consent is life imprisonment.
7. The offending is aggravated by the following matters:
  - The fact the offending occurred twice, both at night;
  - The lack of protection used, exposing MN to sexually transmitted disease and unwanted pregnancy;
  - The breach of trust involved, in that Mr Nanua is an uncle to MN;
  - MN's young age;
  - The sudden unprovoked nature of the offending, including telling MN not to scream or he could kill her;
  - Instructing MN to not tell anyone what had occurred; and
  - The offending involved luring MN away from her home, and removing her from her aunt's home. Both places were somewhere MN should have been able to feel safe.
8. There are no mitigating aspects to this offending.
9. I adopt a sentence start point of 8 years imprisonment, taking both charges into account concurrently.

D. Personal Factors

10. Mr Nanua pleaded guilty to the charges at an early stage. His pleas indicate that he has accepted his wrong-doing. It has also saved Court time and expense, and importantly it has meant MN did not have to give evidence against him. For Mr Nanua's pleas I reduce the sentence start point by 33%.
11. Mr Nanua is now 22 years old. He is married with a one-year old child. He is a subsistence farmer and fisherman, in good standing with the community.
12. He has no previous convictions. However, in cases of sexual offending, the Courts have repeatedly stated that a lack of previous convictions is of limited value as mitigation.
13. Mr Nanua has performed a custom reconciliation ceremony. The gifts included a pig, some kava, baskets and mats. He told the PSR writer that MN accepted the gifts.



14. For Mr Nanua's personal factors, I further reduce the sentence start point by 15 months. I do so mainly on the basis of his youth and immaturity.

E. End Sentence

15. Mr Nanua is sentenced to 4 years imprisonment. I impose that on both charges concurrently.

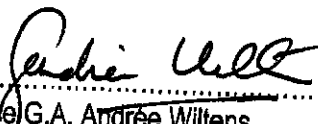
16. The sentences are to run from 19 March 2021 to take into time already spent in custody.

17. The end sentence will not be suspended. This offending is far too serious and due to the nature of the offending, suspending any or all of the sentence would be simply inappropriate. The relevant authority in this regard is *PP v Gideon* [2002] VUCA 7.

18. Mr Nanua has 14 days to appeal the sentence.

19. All details leading to the identification of MN are permanently suppressed.

Dated at Port Vila this 11th day of May 2021  
BY THE COURT

  
Justice G.A. Andrée Wiltens

