

PUBLIC PROSECUTOR

v

ROY DAMIE

Date: 25 February 2022
Before: Justice V.M. Trief
In Attendance: Public Prosecutor – Ms M. Taiki
Defendant – Mr R. Willie

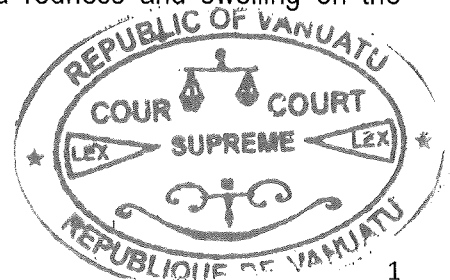
SENTENCE

A. Introduction

1. Mr Damie pleaded guilty to sexual intercourse without consent.

B. Facts

2. Mr Damie and the complainant MJ are related.
3. On 11 October 2017 at Unua 5 village, South East Malekula, MJ, then 25 years old, was alone by a river when Mr Damie jumped at her from behind. He squeezed her neck and pushed her onto her back. MJ felt intense pain in her left shoulder. She tried to kick and scream but Mr Damie sat on top of her causing her pain.
4. Mr Damie tore MJ's panty off. She tried to kick him but he pushed his finger strongly into her vagina multiple times.
5. When he finished, Mr Damie told MJ to see him again in the afternoon. He then put her panty on his head and left.
6. MJ's medical report showed swelling, redness and a finger nail print on her neck, swelling in her left hand and difficulty to lift up, chest pain and redness and swelling on the sternum.
7. Mr Damie admitted his offending to the Police.



C. Sentence Start Point

8. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
9. The maximum sentence provided is life imprisonment.
10. There are no mitigating aspects to the offending. However, the offending is aggravated by the following:
 - a. Breach of trust;
 - b. Planning and premeditation;
 - c. The use of force to effect the rape;
 - d. The offending took place in an isolated area;
 - e. The degree of digital penetration; and
 - f. The effect on the complainant including fear and trauma.

11. The factors set out above require a sentence start point of 6 years imprisonment.

D. Personal Factors

12. I reduce the sentence start point by 33% for Mr Damie's early guilty plea.
13. Mr Damie is 26 years old. He is single and lives with his parents. He is unemployed.
14. He has no previous convictions. However, in cases of sexual offending, a person's previous good character has very little relevance in mitigating a sentence.
15. I further reduce the sentence start point by 1 month for Mr Damie's personal factors.

E. End Sentence

16. The end sentence imposed is 3 years 11 months imprisonment. The sentence is back-dated to run from 16 December 2021 when Mr Damie was taken into custody.
17. There will be no suspension of sentence: *Gideon v Public Prosecutor* [2002] VUCA 7.
18. All details leading to identification of MJ are permanently suppressed.
19. Mr Damie has 14 days to appeal.

DATED at Luganville, Santo this 25th day of February 2022
BY THE COURT


Justice Viran Molisa Trief

