

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

Criminal
Case No. 24/2150 SC/CRML

BETWEEN: Public Prosecutor

AND: John Iatikrau
Defendant

Date of Plea: 2 December 2024
Date of Rearrangement: 23rd June 2025
Date of Sentence: 1st day of July 2025

Before: Hon. Oliver A Saksak

Counsel: Mr Paul Tarikwisi for Public Prosecutor
Mr Harrison Rantes for the Defendant

SENTENCE

Introduction and History

1. The defendant John Iatikrau pleaded not guilty initially on 2nd December 2024 to the charge of Sexual Intercourse without consent.
2. Trial was adjourned to 25th March 2024 but was adjourned due to Mr Vira being sick to 26th June 2025. At a call over, the case was moved forward to 23 June 2025 when Counsel sought leave for the defendant to be rearraigned on the original charge and Information filed on 19 August 2024.
3. The defendant pleaded guilty to the charge of sexual intercourse without consent in Count 1.
4. His co-defendant Felix Johnson pleaded guilty to the charge of act of indecency without consent in Count 2 on 2 December 2024. He was sentenced on 6 December 2024 to an end sentence of 14 months imprisonment. The sentence was suspended for 2 years on good behaviour. The Court imposed an additional sentence of community work of 60 hours.

Facts

5. The facts of these offences are stated in paragraphs 3 and 4 of the sentence dated 2nd December 2024. The offences occurred at a "Disturbance Night" at Loveru School in the night of 19 October 2019. There were 2 defendants John Iatikrau and Felix Johnson. The victim and complainant was one and the same woman by name of Magaret Remon. She made a complainant statement on 21 October 2019, some 2 days later.



6. The complainant willingly accompanied the two defendants to the event. Prior to the show they had alcoholic drinks together. John Iatikrau then asked Magaret for sex but she refused. Facts show that John then grabbed Magaret by the hand and pulled her into the bushes. There he removed her clothing and his own, sucked on her vagina and made her hold his penis. After that the defendant penetrated her vagina with his penis and ejaculated into her. The defendant gave more drinks to the victim and told her he would buy her whatever she wanted but Magaret refused. They both dressed and returned to the event. The second offending by Felix Johnson occurred after this first offending.

Mitigating circumstances

7. From the facts, the victim and complainant is also a married woman. To be on the safe side she could have gone to the event with her spouse but she went out of her way to accompany two married men and asked for alcoholic drinks. They all got very drunk and then the sexual encounters followed. Had she kept away, nothing would have happened to her that night to result in the charges being laid.

Aggravating Features

8. What occurred between John and Magaret might have been consensual as alleged by the defendant. However, it was the grabbing of her hand and pulling her into the bushes after having been given alcoholic drinks that rendered her powerless, and therefore the sexual act of intercourse on her by the defendant was done without her free will.
9. The defendant is therefore convicted and sentenced on his own guilty plea.
10. This offence carries life imprisonment as the maximum penalty under section 91 of the Penal Code Act [Cap.135].
11. In assessing sentence I note the cases submitted by the Prosecutor such as PP v August [2000] VUSC 73, PP v Tao [2012] VUSC 104, PP v Obed [2021] VUSC 233 and PP v Womal [2013] VUSC 148. Based on these cases the Prosecutor submitted the start sentence of between 5-7 years imprisonment.
12. Mr Rantes helpfully referred the Court to PP v Scott [2002] VUCA 29, PP v Johnathan [2008] VUSC 29 and PP v Kelep [2025] VUSC 83. Based on these cases Mr Rantes submitted the start sentence should be between 5-6 years imprisonment.

Start Sentence

13. Adopting PP v August [2000] VUSC 73 and as a rape case, the appropriate sentence for the defendant shall be a custodial sentence.
14. And following PP v Scott [2002] VUSC 29, I convict and sentence the defendant to a start sentence of 4 years imprisonment.
15. This was not a contested case. And in paragraph 8 I have identified a mitigating circumstances. The aggravating features were minimal, such as the grabbing and pulling into the bushes after her initial refusal.



Mitigating Factors

16. In mitigation, first the start sentence is reduced by the full 1/3 according to PP v Gideon [2002] VUCA 7 down to 3 years imprisonment.
17. I have considered the defendant's history and personal factors. He is a married man supporting his wife and an adopted daughter. He contributes usefully to his community. His Chief and his wife speak positively of him. He is the sole bread winner in the family. He depends on subsistence farming for himself and his family. He looks after his wife's widowed mother as well. He has no previous convictions.
18. For those factors together, I reduce the balance of his sentence by 10 months down to 2 years and 2 months imprisonment or 26 months.
19. I consider an additional factor of delay in prosecuting the case since October 2019. I allow a further reduction of the sentence by 5 months leaving the balance to be 21 months.
20. Finally I deduct the period of 1 months 12 days being the time he spent in custody on remand from 6th June 2024 to 18 July 2024.

End Sentence

21. The balance of the defendant's sentence shall be 19 months and 18 days.
22. The defendant is therefore sentenced to 19 months and 18 days imprisonment with immediate effect as of today.
23. He will be eligible to apply for parole after having served half of this period at the Correctional Centre.
24. He has a right of appeal against this sentence within 14 days.

DATED at Isangel, Tanna this 1st day of July 2025

BY THE COURT


Hon. Oliver A Saksak

Judge

