

IN THE SUPREME COURT
REPUBLIC OF VANUATU
(Criminal Jurisdiction)

Criminal Case No. 914 of 2016

PUBLIC PROSECUTOR

-v-

WOLSTEN BULE

Before Justice David Chetwynd
Hearing 23rd February 2017
Mr Blessing for the Public Prosecutor
Mr Molbaleh for the Defendant

SENTENCE

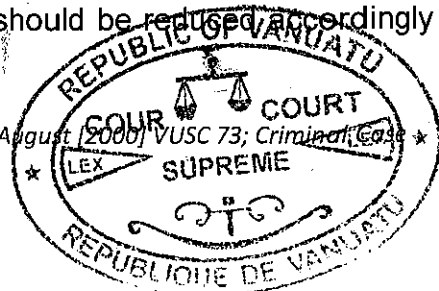
1. The defendant Wolsten Bule was found guilty of two offences of rape after a trial. Written reasons for the convictions were handed down in Port Vila on 23rd November 2016. The trial had taken place on Pentecost over 3 days from 14th June to 16th June 2016. During the trial I was notified that I was required back in Port Vila for a Court of Appeal hearing in the matter of *Speaker of Parliament v Kalsakau* Civil Appeal 1906 of 2016. Although I was able to hear all the evidence and submissions from counsel I was unable to deliver my verdict before departing for Port Vila. As will be seen later, I believe this unfortunate state of affairs should have an impact on the sentence.

2. The facts are set out in my written reasons of 23rd November so I will not repeat them in detail here. It is enough to say the defendant was convicted of forcing a young female relative to have sexual intercourse on two different occasions. The young lady in question was, to all intents and purposes, a family member and thus the offences involved an abuse of the defendant's position of authority over her.

3. The cases which have come before this court previously require a starting point of 5 years to be adopted for any offence of this type of sexual abuse¹. That there was an abuse of the defendant's position of authority over a young girl aggravates the offence and an increase of 1 year is appropriate. The starting point is 6 years.

4. The defendant is aged 37 years old and has never been in trouble with the police before. He is married with two very young children. He has contributed to his community in several ways and is well thought of. He is entitled to some credit for his previous good character and standing. His sentence should be reduced accordingly by 1 year.

¹ See *PP v Scott* [2002] VUCA 29; CA 02-02 (24 October 2002) and *P v August* [2000] VUSC 73; Criminal Case No 014 of 2000 (28 November 2000)



5. He maintained a not guilty plea during his trial and, according to his pre-sentence report, does not accept his guilt to this day. He is therefore not entitled to any deduction in the sentence in respect to those matters. However, the defendant has submitted quite readily to the authority of the court even in the face of the unfortunate delays in the judicial process. He was committed for trial in early March 2016. He came to trial in June. There was then the hiatus caused by my early return to Port Vila. The defendant had to wait 5 months for a verdict. This delay was caused by logistical difficulties, first in trying to arrange a return to Pentecost and then trying to arrange for the defendant to come to Port Vila. Following the delivery of the verdict the defendant was granted bail and returned home. When he was required to come up for sentence there were difficulties with shipping. Faced with those problems the defendant did not ignore his obligation to appear in court and kept his lawyer informed throughout. He has appeared for sentence at the soonest opportunity. He is entitled to credit for the delays he has experienced which were not of his making and his responsible attitude should also be acknowledged. He has had this matter unnecessarily hanging over him for some 8 months. His sentence will be further reduced by a year to 4 years. Finally, the defendant was remanded in custody for one month prior to his trial and that would equate to 2 months of time served. The 2 months should be deducted from his sentence leaving a period of imprisonment of 3 years and 10 months.

6. There are no particular circumstances which require sentences for the two offences to run consecutively and therefore they will run concurrently. This will mean the defendant will serve a total of 3 years and 10 months

7. I have considered whether the sentences, or any part of them, should be suspended. The courts have previously given the clear indication that sexual abuse of this kind will result in immediate custodial sentences. There are no particular circumstances evidence in this case which would enable me to depart from those guidelines and the defendant shall serve his sentence immediately, starting today.

8. The defendant was informed that if he was not satisfied with the sentence of this court then he has the right to appeal. He should discuss this with his counsel before making any final decision.

Dated at Port Vila this 23rd day of February 2017

BY THE COURT

