

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

Criminal Case No. 3870 of 2016

PUBLIC PROSECUTOR

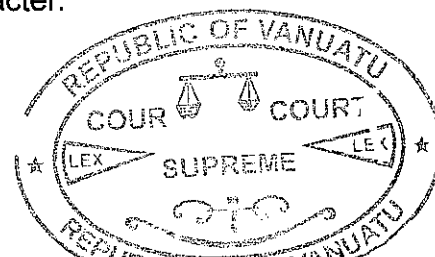
-v-

BILL GIGINA

*Before Justice David Chetwynd
Hearing 15th March 2017 (Written reasons published 21st March 2017)
Mr Massing for the Public Prosecutor
Ms Tari for the Defendant*

Sentence

1. The defendant says he is guilty of two offences of acts of indecency contrary to section 98(a) of the Penal Code. The victim of the offences was his girlfriend at the time. She is aged 20 and he is aged 27. They are or were involved in a fairly serious relationship.
2. In the early morning of 15th May last year both defendant and victim were at Loltavoia. The defendant had been drinking and he went to a house where the victim was staying and made sexual advances to her which were rebuffed. The defendant then grabbed her roughly on the breasts and vagina. She cried out and a friend staying at the house came on the scene and told him to stop. He did but he told the friend to go to sleep. The defendant then took the victim outside and again grabbed her roughly by the breasts and the vagina and demanded sex. She shouted and her friends came out and told the defendant he should leave. Fortunately he did.
3. This type of offence was once known as an indecent assault and that is what the defendant is guilty of. He aggressively assaulted the victim on two occasions and what he did was indecent. The starting point should be two years. Due to the aggressive nature of the defendant's actions and because of the way he groped the defendant by the breasts and lower genitals this was a very serious assault. His drunken behaviour aggravated an unpleasant assault into a very disturbing and upsetting one. The sentence he should serve is 3 three years.
4. In his favour it is accepted that the next morning, no doubt in the sober light of day, he personally apologised to the victim and there was also a public reconciliation. He clearly showed how remorseful he was. The sentence should reflect that and will be reduced by 18 months. The reduction will also take into account his standing in the community and his previous good character.




5. The defendant has always accepted his guilt and entered a guilty plea at the earliest opportunity. He is entitled to a further reduction of one third of his sentence. He has also spent the equivalent of 2 months in custody leaving a final sentence of 10 months. I can find no particular circumstances why the sentence should be suspended in part or in whole and so the defendant will today go to prison for a period of 10 months.

6 Finally, I will remind the defendant of what I said in court, namely if he is unhappy with the sentence handed down then he has the right to appeal. The time for appeal will start to run when his counsel receives a copy of these written reasons.

Dated at Luganville this 15th day of March 2017.

BY THE COURT


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D. CHETWYND
Judge

