

PUBLIC PROSECUTOR VS- WYCLIFF BOESEL

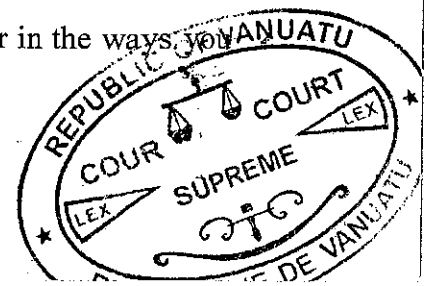
Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *Ken Massing for Public Prosecutor
Tom Joe Botleng for Defendant*

Date of Re-arraignment and Plea: *21st November 2017*
Date of Sentence: *26th February 2018*

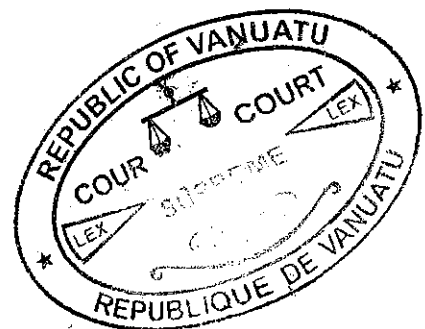
SENTENCE

1. Wycliff Boesel you are for Sentence today for admitting to having sexual intercourse with Kerineth Ligo without her consent on 21st November 2017 when the charge was put back to you.
2. I should remind you at this stage that the charge of sexual intercourse without consent contrary to section 90 (a) of the Penal Code Act [CAP.135] is a very serious charge because it carries a maximum penalty of life imprisonment as specified in section 91 of the Act.
3. The facts of your offending are that in June 2016 at your house at Talise Village you had sexual intercourse without consent with the complainant Kerineth Ligo on which occasion you held her, pulled her clothes off, laid her on the floor and put your penis into her vagina. You then gave her VT 1.000. On the second occasion again at your house you removed the complainant's clothes, spread her legs apart and shaved off her pubic hair. After that you pushed one your fingers into her vagina and then sucked on it with your tongue. After that you then put your penis into her vagina. You then paid her another VT 1.000 so she should not tell on you. The matter was reported to the police who investigated and on interviewing you, you admitted to committing those offences.
4. The complainant was only 18 years old at the time of offending. And you had asked her to come to stay with you as his house girl. Then you abused her in the ways

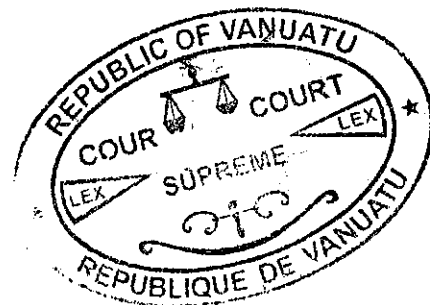


did. You inserted your fingers into her twice. You penetrated her twice with your penis. And you used your tongue on her vagina once. These acts were repeated and all those acts fall within the definition of sexual intercourse in section 90 of the Penal Code Act. You gave her money each time to keep her silent. These are the aggravating features of your offending.

5. Clearly you took advantage sexually of this young girl. It is well established that rape is always a very serious offence and calls for an immediate custodial sentence. Scott .v. Public Prosecutor [2002] VUCA 2 and Public Prosecutor vs Gideon [2002] VUCA 7.
6. In light of the above case authorities, the only appropriate punishment the Court will impose is to be a custodial sentence. This is to serve the following purposes:-
 - a) Mark the seriousness of your offending.
 - b) Mark the Court's disapproval and condemnation of your actions.
 - c) A deterrence for you and like- minded persons.
 - d) Protect young girls and women generally.
 - e) Punish you adequately.
7. I therefore convict you and sentence you for one count of sexual intercourse without consent to a starting point of 8 years imprisonment as the starting point with no uplift.
8. I now consider your mitigating circumstances to reduce your sentence. First your guilty plea. It is also well established that upon a guilty plea an offender is entitled to a 1/3 reduction. Your starting sentence of 8 years imprisonment is reduced therefore by 2 years and 8 months. The balance is 5 years and 4 months.
9. I note you have performed custom reconciliation to the total value of VT 130.000 made up of:-
 - a) Cash- VT 100.000
 - b) Pigs x 2
 - c) Mats x 14, and
 - d) Rice x 1 bag



10. A custom ceremony and reconciliation should be a sign of true remorse on the part of the offender. As for you I am concerned that your relatives performed a similar ceremony in early 2017 for the same offence committed on a girl in very similar circumstances as the complainant in this case. In Criminal Case No 1026 of 2017 you were charged with 3 counts of sexual intercourse without consent. The case went for trial and about half way into the trial you decided to change your plea and pleaded guilty. This Court sentenced you on 22nd August 2017 to an end sentence of 14 years and 6 month for offences you committed in 2015. The ceremony of reconciliation in this case has not been confirmed. And for these reasons I am reluctant to allow any deductions for custom reconciliation and other factors personal to you.
11. The only other deduction I think you should be given is for the period you have been in custody. From the record you have been remanded in custody from 26th April 2017. That is a period of 6 months and 24 days. Accordingly I deduct this period from the 5 years and 4 months remaining. The balance is 4 years 6 months and 6 days.
12. You committed a repeat of your offendings in 2015 within a space of about 15 months. This is a bad indication of the kind of person you are. According to what the Court of Appeal said in PP.v. Gideon the only place you should be is in the Correctional Centre. And for you, it will be a long time because the Court will make your end sentence of 4 years 6 months and 6 days consecutive to your current sentence of 14 years and 6 months.
13. I therefore sentence you to an end sentence of 4 years 6 months and 6 days. I order that this sentence be added to your current sentence of 14 years and 6 months imposed by the Court in August 2017 in Criminal Case No. 1026 of 2017.



14. That is the sentence of the Court. You have a right of appeal against sentence within 14 days if you so choose.

DATED at Luganville this 26th day of February, 2018

BY THE COURT


OLIVER A. SAKSAK

Judge

