

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

Criminal  
Case No. 17/1818 SC/CRML

PUBLIC PROSECUTOR

v

TOM RANO

Date of Sentence: 27 February 2020  
Before: Justice V.M. Trief  
Counsel: Public Prosecutor – Mr K. Massing  
Defendant – Mr J. Garae

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**SENTENCE**

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A. Introduction

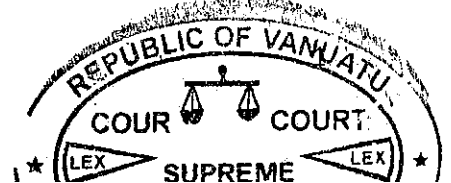
1. Mr Rano was convicted of one count of act of indecency without consent contrary to s. 98(a) of the *Penal Code*. The facts are set out in the Verdict delivered earlier today.

B. Facts

2. The complainant Ms R and her partner, and Mr Rano, lived in the same house. Their bedroom doorways faced each other. Neither bedroom had a door but calico only hung in each doorway. Ms R was lying on her bed in her bedroom. Mr Rano had gone to swim in the creek and on return to the house wore just his underwear. At his doorway he took that off and entered his room naked. From where she was lying down on her bed, Ms R saw Mr Rano as he was naked in his room. Mr Rano had exposed his naked body in the presence of Ms R. This act was without Ms R's consent.

C. Offending Starting Point

3. Mr Rano and Ms R are related to each other in a brother-sister relationship. They lived in the same house. This offending constituted a breach of trust. It occurred only the once. There was no physical touching or force involved as in the cases cited to me by counsel of *Public Prosecutor v Frazer Aru Wenu*; Criminal Appeal Case No. 11 of 2015. *Public*



*Prosecutor v Livae* [2014] VUSC 126 and *Public Prosecutor v Lopez* [2019] VUSC 136. I consider that the appropriate starting point is 3 months' imprisonment.

D. Personal Factors

4. Mr Rano was 68 years old at the time of the offending. He has 5 children, with one daughter studying Year 10 at Ambaebulu Junior Secondary School. His wife had left him in 2013 for another man. He supports his five children. He is a gardener and farmer and earns a living in this way for his family and to contribute to his daughter's school fees. He is a member of the Seventh Day Adventist Church and attends church regularly.
5. Mr Rano has no prior convictions. He is remorseful and says his offending was unintended. Since Mr Rano's release on bail in August 2017, he has faithfully complied with his bail conditions including not committing another offence and signing weekly with the Police. The delay since 2017 in this matter being brought to trial has affected him in not being able to return to his home island of Malekula. He has had to pay for his own travel costs to and from Ambae previously for trial but that did not go ahead.
6. These factors warrant a deduction from the starting point of one month.

E. Sentence

7. Accordingly, the end sentence that is imposed is one of 2 months imprisonment.
8. Mr Rano has already prior to sentence spent 75 days in custody at the Correctional Centre in Luganville, Santo from 9 June 2017 to 22 August 2017. Therefore he has already served the period of the end sentence. He is free to go.
9. Mr Rano has 14 days to appeal this sentence.

**DATED at Saratamata, Ambae this 27<sup>th</sup> day of February 2020  
BY THE COURT**

  
V.M. Trief  
Judge

