

(Criminal Jurisdiction)

**PUBLIC PROSECUTOR**

**VS.**

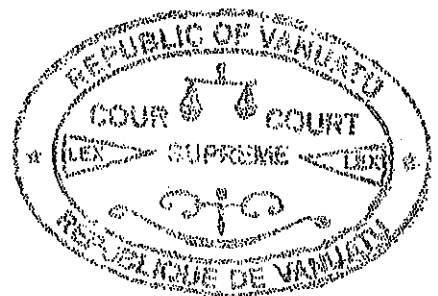
**CLINTON LEO  
SIMEON PHILIP**

Mr Justice Oliver A. Saksak  
Mrs Anita Vinabit - Clerk

Mrs Kayleen Tavoia – Public Prosecutor  
Mr Kevin Nathan - for the Defendants

**SENTENCE**

1. Clinton and Simeon you both pleaded guilty to one count of sexual intercourse without consent contrary to Section 91 of the Penal Code Act Cap 135. This offence carries a maximum of life imprisonment.
2. Clinton you are a young boy of 15 years old. Section 54 of the Penal Code Act states that a person under the age of 16 years is not to be sentenced to imprisonment unless no other method of punishment is appropriate. Further it requires that reasons be given where a Court Sentences a minor to imprisonment.
3. I consider that according to the principle in the Ali August Case there is no other appropriate method of punishment for you.
4. You took advantage of girl who looked to you and Simeon for care and protection because you were all neighbours. When there was no one else to walk with after a dance at 4 O'clock a.m she turned to both of you for company. Instead you both abused her by having sex with her without her consent. And both of you applied some degree of force to achieve your sexual gratification.



5. Both of you were drunk on that night although it is apparent Simeon was the more drunk of the two of you.
6. It is suggested that the Court should consider Section 54 and not impose a custodial sentence on Clinton Leo. However, the Court disagrees. A 15 year old boy who goes to a dance and stays up all night, who admits getting drunk with kava and alcohol and having bad thoughts should be held responsible for his actions.
7. Having considered all submissions made to me, the Court will impose custodial sentences on both of you to mark the gravity of your offending, to punish both of you adequately and to deter both of you and others from doing the same.
8. Accordingly the Court sentences you Clinton Leo to a term of 6 years imprisonment. However due to your mitigating circumstances, 12 months are deducted. You will serve the balance of 5 years imprisonment.
9. For you Simeon Philip the Court sentences you to a term of 6 years imprisonment. However like Clinton, 12 months are deducted leaving the balance of 5 years imprisonment.
10. Your sentences commenced from 9<sup>th</sup> January 2009 when both of you were first remanded in custody.
11. That is the sentence of the Court.
12. You may appeal within 14 days if you are not happy with your sentences.

**DATED at Luganville this 17<sup>th</sup> day of March 2009.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**  
Judge

