

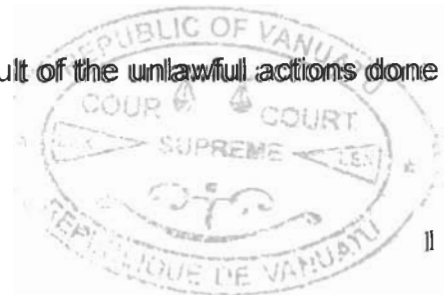
PUBLIC PROSECUTOR – V – MATHIAS CLETON BALAS

Coram: *Mr Justice Oliver A. Saksak*

Counsels: *Mr P. Wirrick for Public Prosecutor*
Miss J. Tari for Defendant

SENTENCE

1. Mathias Cleton Balas you pleaded guilty to one count of sexual intercourse without consent on 22nd February 2013. The charge was a representative one because the offences were committed on two separate occasions first on 13th August 2012 and secondly on 20th August 2012, some seven days later.
2. Sexual Intercourse Without Consent under section 91 carries a maximum of life imprisonment. That penalty reflects the seriousness of the offence.
3. Your victim was a little girl. Her age is given at 9 years. On 13th August 2012 at about 7.30 a.m the girl was going to fetch water when you abducted her, took her to a nearby house, made her lie down and after lifting up her skirt, you proceeded to have sexual intercourse with her. The girl felt great pain and was unable to walk properly. Upon reaching her home, the girl reported her ordeal to her parents.
4. Seven days later on 20th August 2012, the same girl went to fetch water again at about lunch time. This time you abducted her and took her to some banana trees and forcibly had sex with her again causing her great pain. After having sex with her you then fled and she returned to her home and again reported the incident to her parents. You have accepted those facts.
5. The girl has stopped attending school as a result of the unlawful actions done to her. She has become fearful.



6. The above facts indicate the aggravating features of your offendings being –

- (a) Repetitive commission of offences (on two occasions);
- (b) The victim is a very young girl of 9 years;
- (c) The physical pain suffered;
- (d) The mental effect on the girl and effect on her schooling;
- (e) Her abductions prior to offendings taking place.

These warrant an uplift to the starting point.

7. The Court is guided by the cases of Public Prosecutor v. Scott [2002] VUCA 29 and Public Prosecutor v. Gideon [2002] VUCA 7 to indicate to you that a custodial sentence will be imposed in order to –

- (a) deter you and others from committing these offences;
- (b) protect young girls and women;
- (c) denounce your actions; and
- (d) punish you appropriately and adequately.

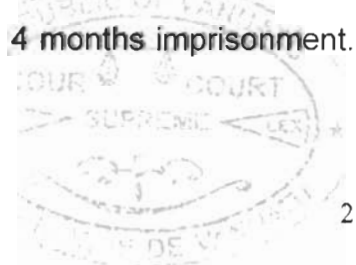
8. The Court hereby convicts and sentences you to a custodial sentence of 5 years as the starting point. For the aggravating features, there will be an uplift of 3 years imprisonment bringing the total of 8 years imprisonment.

9. I have seen your Pre-Sentence Report which suggests you have some mental disabilities. But there is no medical report to confirm such suggestion.

10. I note however the following mitigating factors:-

- (a) Being a first time offender;
- (b) Guilty plea at first opportunity;
- (c) Cooperation with the Police.

For these factors there will be a reduction of 2 years and 8 months from your total of 8 years imprisonment. This represents a **1/3 reduction**. The total sentence you have to serve is therefore 5 years and **4 months imprisonment**.



This sentence commenced on 11th January 2013 when you were first remanded in custody.

11. That is the Sentence of the Court. You may wish to appeal against this sentence in which case you should do so within 14 days from the date of this sentence.

DATED at Luganville this 8th day of March 2013.

BY THE COURT


OLIVER A. SAKSAK

Judge

