

BETWEEN: Public Prosecutor

AND: Ompre Taren

Date of Hearing: 23 October 2019
Court: G.A Andrée Willens
Counsel: Mr K. Massing for the Public Prosecutor
Ms L. Bakokoto for the Defendant

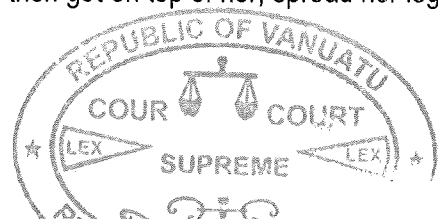
SENTENCE

A. Introduction

1. Mr Taren pleaded guilty to a charge of sexual intercourse without consent. The maximum sentence for such offending is a term of life imprisonment.

B. Facts

2. Mr Taren is related to the 30-year old complainant – she is his cousin. They both come from Rory Village in north-east Malekula.
3. The left side of the complainant's body is paralysed to some degree – the summary of facts records that her left side "...is not working well".
4. On 25 June 2015 the complainant had been sent from home to a shop to collect some bags of copra. On her way back home, she was followed by Mr Taren.
5. He caught her from behind and made her drop the bags of copra she was carrying, before he pulled her into the bush beside a creek. He instructed her to make no sound before removing her clothing and pushing her down onto the ground. He then got on top of her, spread her legs



apart and forced his penis into her vagina to the point of ejaculation. The complainant was unable to resist despite the pain she endured in her vagina.

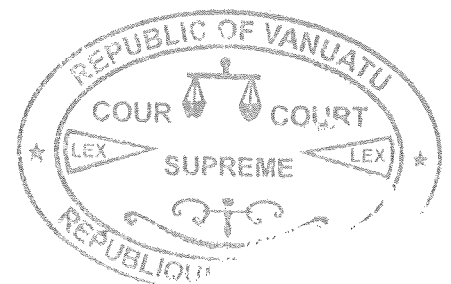
6. Mr Taren then instructed the complainant to not tell anyone about the matter, as he did not want to be beaten up by her father. He then fled. The complainant made her way home, distressed and without the items she'd been asked to fetch.
7. When arrested and interviewed, Mr Taren denied the allegations.

C. Start Point

8. This is serious offending, with several aggravating factors.
9. Firstly, it is made more serious by the fact that Mr Taren is related to the complainant, and that they emanate from the same village – there is a breach of trust. Secondly, it is a significantly aggravating factor that the complainant is paralysed to some extent, a fact well known to Mr Taren and a fact that he exploited for his own ends. He knew that the complainant would not be able to defend herself from his assault.
10. There may well have been some planning involved in the offending, as Mr Taren appears to have well aware of what the complainant had been asked to do and where she would be – matters he took advantage of. As this is a possibility only, I place no weight on this factor.
11. Thirdly, it is aggravating that Mr Taren instructed the complainant to not tell others about what he had done so as to avoid trouble for himself.
12. The appropriate start point for the offending is accordingly set at 7 years imprisonment.

D. Personal Factors

13. Mr Taren has no previous convictions. He is married with 4 young children, and he is the main bread-winner for the family through his farming endeavours.
14. The PSR reveals he is remorseful and regretful of his conduct. He promises to not re-offend in a similar fashion.
15. I note that there has been no custom reconciliation ceremony; although Mr Taren has indicated a willingness to take part in such it appears the victim's family have declined.
16. In all the circumstances, I am prepared to reduce the sentence start point by 6 months imprisonment to take into account Mr Taren's personal factors.



17. As a final factor, I take into account that this offending occurred in June 2015, over 4 years ago. The delay inherent in this proceeding entitles Mr Taren to a further discount of 3 months from his sentence.

E. Plea

18. Mr Taren pleaded guilty before me, but that was not his first opportunity to do so.

19. By pleading guilty on the day of trial, he spared the complainant the ordeal of having to give evidence – no small matter. However, he could, and should, have done so sooner to alleviate the undoubted stress she had to endure in the lead up to the day of trial. For that reason I reduce Mr Taren's sentence by only 15%. Had he pleaded at the first available opportunity he would have been eligible to receive a reduction of more than twice that.

F. Suspension

20. The Court has a discretion, in certain legislated circumstances, to suspend the period of imprisonment imposed, either wholly or in part. The Courts have previously repeatedly stated that for offending of this type and seriousness, a suspended sentence is wrong in principle. Accordingly, I decline to exercise my discretion in Mr Taren's favour – there can be no suspension of any part of his sentence.

G. End Sentence

21. The sentence Mr Taren must serve is set at 5 years 3 months imprisonment. The sentence is to commence from 23 May 2019 as a recognition that Mr Taren has already been incarcerated for 6 months during the Court process.

22. Mr Taren has the right to appeal this sentence within 14 days if he so chooses.

Dated this 23rd day of October 2019 at Lakatoro Supreme Court


Justice G.A. Andrée Wiltens

