

IN THE SUPREME COURT OF VANUATU

Crim Case

HELD AT LAKOTORO

Case No. 18/32/CRML

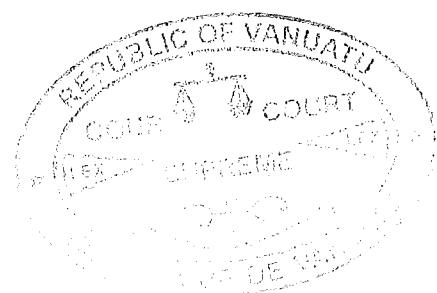
BETWEEN: Public Prosecutor

AND: Brisco Bob

Date of Hearing: 23 October 2019
Court: G.A Andrée Willens
Counsel: Mr L. Young for the Public Prosecutor
Mr H. Rantes for the Defendant

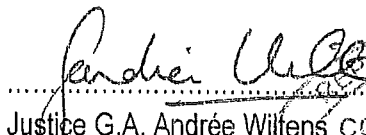
JUDGMENT

1. Mr Bob had pleaded not guilty. He was tried on one charge of sexual intercourse without consent. The only prosecution witness called was the complainant.
2. The effect of her evidence was that on the night in question she was raped by a succession of young men. Four young men have previously admitted that, but Mr Bob disputed being involved. Ergo, the only issue for me to determine was that of identity.
3. The complainant told me she was able to identify Mr Bob as one of her assailants solely because she recognised his voice.
4. Voice recognition is fraught with danger – it is too easy to make mistakes.
5. However, her evidence was even less plausible than usual, as she told me that while she knew Mr Bob and knew where he lived in her village, the complainant had never actually spoken with him, ever. When asked then how it was that she could recognise Mr Bob's voice, the complainant told me that a group of young men had followed her and her first assailant to the beach – and there was conversation between them at the time.



6. This occurred at night, in a secluded area. The complainant confirmed she had not seen Mr Bob at any time that evening.
7. She did not give any evidence that there was conversation during any of the sexual intercourse.
8. The complainant's purported identification of Mr Bob was completely unreliable and unsupported by any cogent evidence that she might have been in a position to be able to recognise his voice.
9. I did not require any cross-examination. The identification was insufficient to be able to pass the no case to answer stage of the case, let alone support a conviction.
10. As that was the strength of the prosecution case I dismissed the charge against Mr Bob and released him.

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


Justice G.A. Andrée Wiltens

