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

Criminal
Case No. 20/1624 SC/CRML

BETWEEN: Public Prosecutor

AND: Ricky Erick
Defendant

Date: 22 July 2020
By: Justice G.A. Andrée Wiltens
Counsel: Mr L. Young for the Public Prosecutor
Mr R. Willie for the Defendant

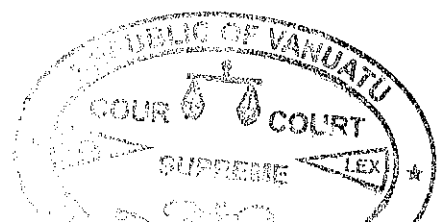
SENTENCE

A. Introduction

1. Mr Erick pleaded guilty to:
 - Unlawfully entry of a dwelling house - maximum sentence is 20 years imprisonment;
 - Theft – maximum sentence is 12 years imprisonment;
 - Abusive threatening languas – maximum sentence is 3 years imprisonment; and
 - Intentional assault without physical damage – maximum sentence is 12 months imprisonment.

B. Facts

2. On 13 March 2020 Mr Erick stood on a public road and used abusive words towards Kaltang Kono: '*stink kok, yu fuckem mama blong yu*'. Ms Kono was then in the company of the defacto partner and others. Mr Erick admitted acting in this fashion when questioned by the police. [Charge 4]
3. Also on 13 March 2020 Mr Erick was affected by the consumption of alcohol and had a piece of wood in his possession. He hit the complainant, a young man with a mental disorder, on his back and to the back of his



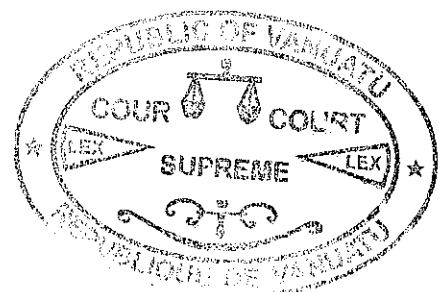
head. The complainant ran off, and Mr Erick was about to chase him when he was stopped by a member of the public. Mr Erick admitted his actions when interviewed by the police [Charge 5].

4. On 20 March 2020 at night, Mr Erick entered Vaniha Ngui's home at Banban Whitewood, Santo. Vanima heard her daughter-in-law Bernadet call out.
5. Bernadet called out as she was woken up in her bedroom by someone she did not know touching her private parts. That's why she shouted out in a loud voice. The unknown person smell of alcohol and pulled Bernadet out from her room.
6. When Vanima went to investigate she found Mr Erick leading Bernadet outside. Vanima shouted and Mr Erick released Bernadet and left. Prior to that however, Mr Erick had been in 3 other rooms of the house and stolen a black alcatel mobile phone, VT 15,000 cash and VT 2,300 cash.
7. When interviewed by the police Mr Erick freely admitted entering the house, stealing the missing items and touching Bernadet's private parts prior to leading her out of her bedroom.

C. Sentence Start Point

8. The sentence start point is assessed by taking into account the totality of the offending on a global basis, having regard to the available maximum sentence. This assessment is restricted to looking only at the offending.
9. The aggravating factors of Mr Erick's offending include:
 - The unlawful entry into the home occurred at nighttime and with one complainant asleep in her bed;
 - The entry was obviously determined – he went into 3 rooms to steal and sexually assaulted a young woman;
 - The complainant of the assault was vulnerable in that he suffers from a mental disorder and, he was struck at the back of the head, a particularly vulnerable part of human anatomy; and
 - Repeat offending – 4 charges on 3 different occasions.
10. There are no mitigating features in the offending.
11. The sentence start point, taking all the offending into account, is a term of 3 years imprisonment.

D. Personal Factors



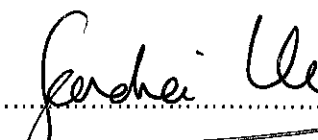
12. Mr Erick pleaded guilty at the first available opportunity. I am prepared to reduce the sentence start point by 25% for that factor. I do not accept that he is remorseful.
13. Mr Erick is 26 years old, residing with his defacto partner in Banban. There are no other personal factors warranting further discounts from the sentence start point.
14. Mr Erick has previous convictions:
- On 3 August 2016 he was sentenced to 1 month imprisonment for Theft;
 - On 19 December 2019 he was sentenced to 18 months supervision and 2 months imprisonment for unlawful entry and theft.
15. Mr Erick appears to have learnt nothing from his previous interactions with the law. His engagement with the Probation Service has not enabled him to avoid further offending. A small uplift is required to reflect these matters – 6 months.

E. End Sentence

16. The end sentence imposed is 2 years 9 months imprisonment on the unlawful entry and theft charges. For the abusive language and intentional assault charges, the sentence is one month imprisonment on each. All the sentences are to run concurrently, but to commence from 24 April 2020 to take into account time already spent in custody.
17. It is not possible to suspend the sentence. Mr Erick is a recidivist. He needs to be deterred from further offending and the public also needs to be protected from him.
18. Mr Erick has 14 days to appeal the sentence if he is unhappy with it.

DATED at Luganville this 22nd day of July 2020

BY THE COURT


Justice G.A. Andrée Wiltens

