

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

**Criminal**  
**Case No. 21/1854 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**ALDONE RAU**

*Date:* 27 May 2022  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Mr D. Boe  
Defendant – Mr R. Willie

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**SENTENCE**

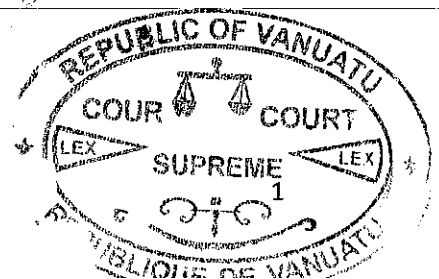
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A. Introduction

1. Mr Rau was convicted after trial of act of indecency without consent.

B. Facts

2. At about 3.30am on Easter Monday morning in 2020, Felista Dule awoke at her house at North Pentecost to Mr Rau pushing 2 fingers into her vagina. She had not been asked if she consented to him doing that and she did not agree to his doing so. Also in the same room were her husband Johnford Dule and their 2 children.
3. Mrs Dule called out strongly and slung Mr Rau off onto her husband. Her husband woke up disoriented but after she called him again for them to follow the man, they and their children (by now also awakened) rushed outside.
4. Outside, they found a mobile phone on the ground. Her husband and elder daughter went to charge the phone, and she sat down. Only then did she realise that her party was down around her legs.
5. Her daughter saw pictures of Mr Rau and his younger brothers on the phone. Her husband said he would go to Mr Rau's village to check who owned the phone. VT3,500 was found on the road at Mr Rau's village. On his return, she and her husband went to see Mrs Rolenas Lolo of the women's centre at her house and then at 8am at her office at Lavatu. They reported what happened during the night.



6. Mr Rau's father paid a fine in custom to Mr Dule involving a tusked pig and VT42,000 (with another VT8,000 not yet paid) because Mr Rau stole money from Mr and Mrs Dule's store. The theft occurred also in the early morning of Easter Monday, 2020.

C. Sentence Start Point

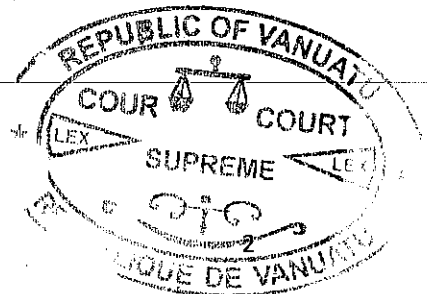
7. The sentence start point is to be determined by looking at the maximum sentence available for the offending, and then factoring in the aggravating and mitigating aspects of the offending.
8. The maximum sentence provided in s. 98(a) of the *Penal Code* [CAP. 135] for indecent act without consent is 7 years imprisonment.
9. There is no mitigating aspect to the offending.
10. The offending is aggravated by:
  - The contact involved skin-on-skin;
  - There was digital penetration – 2 fingers inserted into the complainant's vagina; and
  - The offending occurred at night at the complainant's home, where she should have been able to feel safe, and in the presence of her husband and children.
11. Given the factors set out above, I adopt a sentence start point of 3 years 6 months imprisonment.

D. Personal Factors

12. Mr Rau is 22 years old. He is single and resides with his parents and siblings at North Pentecost.
13. He has no previous convictions. However that is of little relevance to mitigate a sentence in the case of sexual offending.
14. Mr Rau was under the influence of alcohol. That is no mitigation.
15. A custom reconciliation ceremony took place involving a tusked pig and VT42,000 but it was not directed to the complainant for the sexual offending but to her husband for the theft from their store.
16. For Mr Rau's personal factors including his youth and immaturity, I deduct 8 months from the sentence start point.

E. End Sentence

17. The end sentence imposed is 2 years 10 months imprisonment.



18. Mr Rau has been remanded in custody since 8 December 2021 and previously from 12 May 2021 to 14 June 2021. To preserve his parole rights, his sentence will accordingly commence from 5 November 2021.
19. The sexual nature of the offending counts against suspension of the sentence: *Public Prosecutor v Scott* [2002] VUCA 29 and *Public Prosecutor v Gideon* [2002] VUCA 7. Further, there is no exceptional reason in this case to suspend the sentence.
20. Mr Rau has 14 days to appeal.

**DATED at Port Vila this 27<sup>th</sup> day of May 2022  
BY THE COURT**

*VM Tref*  
Justice Viran Molisa Tref

