

**PUBLIC PROSECUTOR – VS – MARTIN WOMAL**

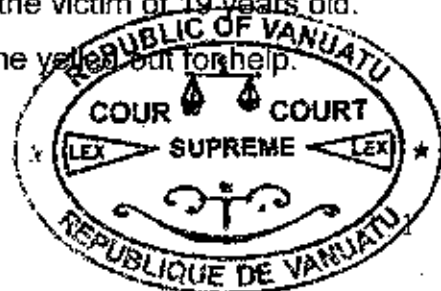
**Coram:** Mr. Justice Oliver A. Saksak

**Counsel:** Public Prosecutor, Ms Kayleen Tavoia for the State  
Mr. Lent Tevi for the Defendant

**Date of Hearing and Sentence:** 3<sup>rd</sup> September 2013

**SENTENCE**

1. Martin Womal, you pleaded guilty to one count of sexual intercourse without consent contrary to sections 90 – 91 of the Penal Code Act Cap. 135 (the Act) and to one count of act of indecency without consent contrary to section 98 (a) of the Act.
2. Due to your admissions, the Court convicts you on both counts as charged.
3. The maximum penalty for an offence of sexual intercourse without consent is life imprisonment. And an offence under section 98 (a) of the Act carries a maximum penalty of 7 years imprisonment.
4. The lead offence is sexual intercourse without consent in count 1. The Court considers that 5 years imprisonment is the appropriate starting point. There will be no separate penalty imposed for the acts of indecency charge in Count 2. The Court will treat this as an aggravating feature in addition to the other aggravating features submitted by the prosecutions.
5. The additional aggravating features are –
  - (a) The offence was planned before hand.
  - (b) There was a serious breach of trust.
  - (c) There was some physical force used against the victim of 19 years old.
  - (d) There was some threats of physical harm if she yelled out for help.



6. These aggravating features warrant an uplift of 3 years to the starting point of 5 years imprisonment making a total of 8 years imprisonment.
7. Courts must at all times continue to impose sentences that serve the following purposes:-
  - (a) To mark the seriousness of offending.
  - (b) To mark public disapproval of the offendings.
  - (c) To act as a deterrence for the offender and other men.
  - (d) To protect young girls and women generally.
  - (e) To punish the offender appropriately and adequately.
8. I consider that your Sentence of 8 years imprisonment should be reduced due to the following mitigating factors:-
  - (a) Guilty plea – 1/3 reduction = 2 years and 8 months. The balance being 5 years and 4 months.
  - (b) For custom reconciliation showing remorse, being a first-time offender and good cooperation with the police during investigation and interview, a general reduction of 2 years is allowed. That brings the Sentence down to effectively 3 years and 4 months.
9. You are therefore sentenced to serve an imprisonment term of 3 years and 4 months at the Correctional Centre in Luganville.
10. Your Sentence is backdated to 11<sup>th</sup> July 2013 when you were first remanded into custody.
11. That is the Sentence of the Court. You have a right of appeal within 14 days from today's date if you are not happy with this Sentence.

**DATED at Luganville this 3<sup>rd</sup> day of September 2013.**

**BY THE COURT**

  
**OLIVER A. SAKSAKOUR**  
Judge

