

PUBLIC PROSECUTOR

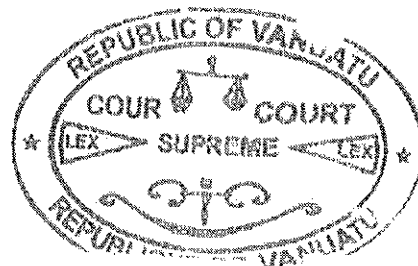
VS.

WILLIE SEVENO TALI

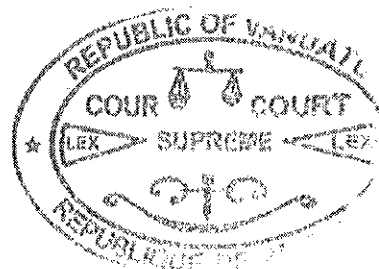
Counsel: Mr. K. Massing for the Prosecution
Mrs. M. Vire for the Defendant

SENTENCE

1. **WILLIE SEVENO TALI**, you appear today for sentencing in this matter. You were charged with one count of sexual intercourse without consent contrary to s 89A, 90 and 91 of the Penal Code [CAP 135]. On 3 February 2016 you entered a not guilty plea to the charge here in Santo and the matter was set down for trial on Malekula. Following the trial, on 6 May 2016 you were found guilty as charged and convicted accordingly.
2. The complainant is your wife. In brief, the facts as found are that you had sexual intercourse with her without her consent. You have a number of children but at the time of the incident, you were living separately as the complainant had obtained a Family Protection Order against you. You were restrained to keep a distance of 100 metres away from her.
3. The incident occurred on the 17 July 2015 sometime in the evening. On that date the complainant took Pauline to treat your youngest son who was sick, with leaf medicine. As he was living with you at your house, the complainant did not follow Pauline to the house but waited for her in the bush nearby. While waiting she saw someone appearing and called out to him. Upon realizing it was you, she was shocked and ran into the bushes. You followed her and held her tightly with your two hands and pulled her into the bush.



4. You then pushed her down and she bend down and you had sexual intercourse with her. After that she left you in the bush and ran back to the road to see Pauline and took her home. On the 20 July 2015 she went to the Police station and reported the matter to Police officer Patricia Pakoa.
5. In sentencing you today I have taken into account the submissions of the Public Prosecutor and Counsel on your behalf and also the Pre sentence Report prepared by your probation officer. In brief your personal details as stated in your Pre sentence report are that:-
- You completed school at year 6;
 - You are self employed and own a mini sawmill and sell garden produce to earn your income;
 - You are married to the complainant and you have five children, a daughter and four sons;
 - You are now in a defacto relationship with another partner and you have a two month old daughter;
 - You are also an active member of your community and you are the chairman of the council of chiefs of your tribe.
6. Rape or sexual intercourse without consent carries a maximum penalty of life imprisonment. When considering the starting point of your sentence I take into account the fact that you used force and held tightly onto the complainant and pulled her to where you had sex with her.
7. I adopt a starting point of 6 years imprisonment. You told your probation officer that you now regret what you did to your wife who is the mother of your five children and you are sorry for what you did. No custom reconciliation has been undertaken as yet and there are no other factors that can be taken as mitigation. However, I am prepared to show some leniency as submitted by Counsel on your behalf in view of the fact that you recognize that what you did was wrong. I reduce your sentence to 5 years imprisonment as the end sentence.



8. Your probation officer confirms that on 27 November 2015 you started serving a 10 month sentence of imprisonment for intentional assault which will lapse on 27 September 2016.
9. The sentence I impose on you today will be effective from the date your current sentence is served ie. from **28 September 2016**.
10. You have 14 days to appeal this decision if you are not happy with it.

DATED at Luganville this 8 day of July 2016.

BY THE COURT


D. ARU
Judge.

