

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU

Criminal
Case No. 18/2594 SC/CRML

BETWEEN: Public Prosecutor

AND: Prosper Buletare

Defendants

Date: 1 March 2019
By: Justice G.A. Andrée Wiltens
Counsel: Mr K. Massing for the Public Prosecutor
Ms J.T. Aru for the Defendant

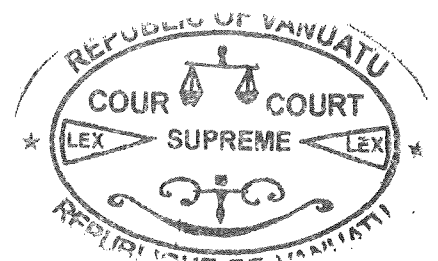
SENTENCE

A. Introduction

1. Mr Buletare was found guilty after trial of 2 charges of committing indecent acts without consent. The maximum sentence for each offence is a term of 7 years imprisonment. Both charges were in the nature of representative charges in that the offending occurred on a number of occasions in 2015.

B. Facts

2. Mr Buletare entered DN's office (her full name is suppressed) on numerous occasions in 2015, unexpectedly, and locked the door behind him. He initially flirted with DN and requested to have sex with



her, and when that was declined, he then proceeded to sexually abuse DN by groping at her breasts outside her clothes and forcing her to masturbate him until he ejaculated. He would leave her in tears.

3. DN did not consent to this behavior. She did what she could to resist, and went to considerable efforts to attempt to avoid repetition. Mr Buletare did not listen to DN's protestations, and he proved too strong for her to resist physically.

C. Aggravating/Mitigating Factors to the Offending

4. There are several aggravating factors to the offending:

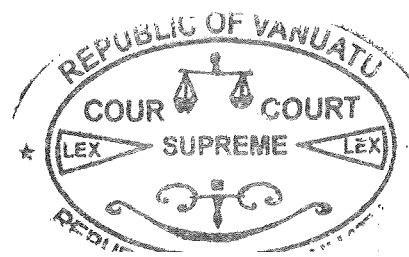
- There was a real disparity between them in terms of authority – he was one of her bosses, and she was greatly concerned for her job;
- There was an aspect of planning; Mr Buletare would take advantage of the situation, when DN's door was open and ^{he was} sure that she had no one with her, to enter and force himself upon her;
- There is the element of repeated offending over the course of the year;
- The offending took place in DN's office;
- Mr Buletare showed no remorse, even still disputing liability;
- The offending involved "skin on skin" contact; and
- The effects on DN – the PSR reveals she is deeply traumatized by the offending. She told the Court of her shame and embarrassment. That must have been made worse by having to tell her ultimate boss, the Secretary-General. In effect, Mr Buletare was responsible, by his conduct, for DN ending her employment.

5. There are no mitigating factors to the offending.

6. The start point that I adopt as appropriate for this criminal offending and Mr Buletare's culpability, bearing in mind the totality of criminal culpability, is 3 years 9 months imprisonment.

D. Personal Factors

7. Mr Buletare has no previous convictions. He is in a defacto relationship and has 6 children. He is said to get on well with his family and his immediate community. There is little doubt he has made valuable contributions to the community, both in terms of his work and also in terms of voluntary contributions. He



has family commitments, especially in terms of caring for an elderly ill mother; and he has his own medical issues to also deal with.

8. Mr Buletare's personal factors enable me to reduce the start point for his sentence by 9 months imprisonment. It is at that relatively low level, as there is ample authority setting out that a defendant's personal good previous record has only a limited bearing on sentencing for sexual offending.

E. Sentence

9. The end sentence that I impose on Mr Buletare is one of 3 years imprisonment.

F. Suspension

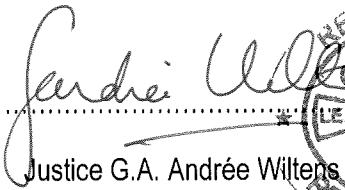
10. In limited circumstances I have a discretion to suspend all or part of the sentence. Given that this is serious repeat sexual offending, the authorities make it plain that suspension would be inappropriate in Mr Buletare's case. I take into account also that he is unremorseful, and that he has not taken part in a custom ceremony. Accordingly, suspension is not available in this case.

G. Conclusion

11. Mr Buletare is to serve 3 years imprisonment from today.
12. Mr Buletare has 14 days in which to appeal this sentence if he does agree with it.

DATED at Luganville this 1st day of March 2019

BY THE COURT


Justice G.A. Andrée Wiltens

