

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

Criminal
Case No. 21/994 SC/CRML

BETWEEN: Public Prosecutor

AND: Michael Selwyn

Date: 23rd April 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr D Boe for the Public Prosecutor
Mr R Willie for the Defendant

SENTENCE

A. Introduction

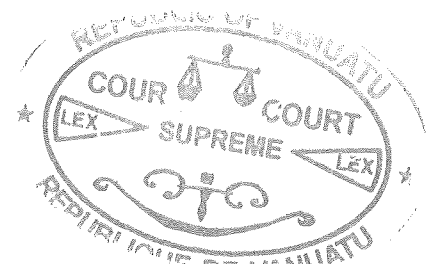
1. Mr Selwyn pleaded guilty to sexual intercourse without consent.

B. Facts

2. At about 1am on 25 December 2020, Mr Selwyn was intoxicated. He entered JRB's bedroom where she was sleeping, took off her clothes and had sexual intercourse with her.
3. JRB initially thought it was her husband, but then realised it wasn't. She took a torch and shone it in Mr Selwyn's face to confirm the man was not her husband. Mr Selwyn then ran off half naked.
4. When interviewed, Mr Selwyn admitted his offending.

C. Sentence Start Point

5. The sentence start point is assessed by considering the maximum sentence for this offending and factoring in the aggravating and mitigating aspects of the offending.
6. The maximum penalty for sexual intercourse without consent is life imprisonment.
7. There are no mitigating aspects to this offending. The offence is aggravated by the fact it occurred in JRB's home and involved invasion into her home where she should feel safe and where she



where she was asleep. The unprotected nature of the offending exposed JRB to sexually transmitted disease and unwanted pregnancy.

8. The sentence start point I adopt is 6 years imprisonment.

D. Mitigation

9. Mr Selwyn pleaded guilty to his offending. That is an acknowledgement of wrong-doing, as well as a saving of Court time and expense. Further it has spared JRB the ordeal of having to give evidence. For that reason the sentence start point is reduced by 33%

10. Mr Selwyn is 39 years old, married with 5 children. He had limited schooling and relies on gardening to support his family.

11. He has no previous convictions.

12. Mr Selwyn blames JRB. However, as she was asleep at the time, that is plainly unwarranted. It does Mr Selwyn no credit to minimise his offending

13. For his personal circumstances. I further reduce the sentence start point by 3 months.

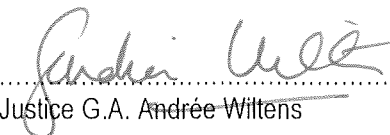
E. End Sentence

14. The end sentence I impose is a term of 3 years 9 months imprisonment. The sentence is to run from 12 February 2021.

15. There is no possibility of suspending any of the sentence due to the nature of the offending.

16. Mr Selwyn has 14 days to appeal the sentence if he disagrees with it.

Dated at Luganville, this 23rd day of April 2021
BY THE COURT


Justice G.A. Andrée Wiltens

