

PUBLIC PROSECUTOR

v

NONO BOE

Coram: *Hon. Chief Justice V. Lunabek*

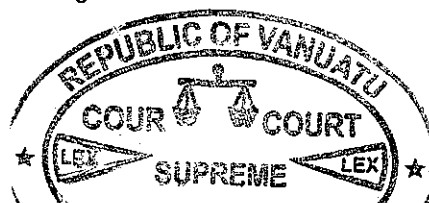
Counsel: *M Tasso for the State*
PK Malites for the Defendant

Date of Plea: *12 September 2022*

Date of Sentence: *9 May 2023*

SENTENCE

1. Defendant Nono Boe was initially charged with three (3) counts of acts of indecency, contrary to Section 98(a) of the Penal Code. He pleaded guilty to the offence in Count 1 and not Guilty for the offences in Counts 2 and 3. Nolle Prosequi was entered in respect to offences in Counts 2 and 3. He was discharged of them and both offences were dismissed.
2. He was sentenced only in Count 1.
3. This incident occurred in the early morning of 25 May 2022 around 6:25am. Mr Boe was 21 years at the time of offending and the complainant was 29. They both lived at Pango Village. The complainant was walking her dog beside her. She saw the defendant Nono Boe coming out behind the bushes and starting walking behind her. He then came up close to her and touch her bottom.
4. The maximum penalty for this offence is 7 years imprisonment. It is a serious offence. It is also an offence that can be committed with varying degrees of seriousness from extended and repeated full digital penetration of a victim's vagina to momentary touching of a victim's private parts over her clothes. References are made to following cases: *Wenu v Public Prosecutor* [2014]; *Criminal Appeal*

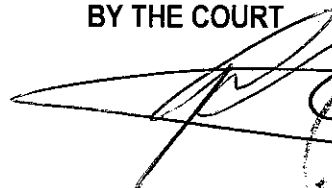


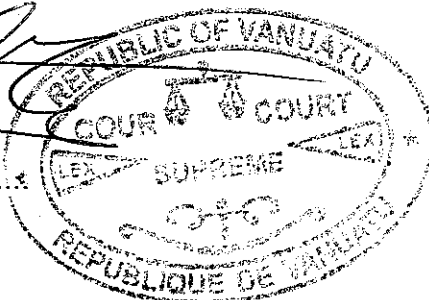
Case No. 11 of 2015; Public Prosecutor v Livae [2014] VUSC 126; Public Prosecutor v Lopez [2019] VUSC 136; and Tangiat v Public Prosecutor [2014] VUCA 15.

5. In this case, it is a one-off incident and Mr Nono Boe touched the complainant's bottom without her consent while she was walking her dog home.
6. Mr Nono Boe accepted that two aggravating factors were present in his offending on 25 May 2022 as charged:
 - A degree of premeditation and planning on his part;
 - It took place a broad daylight.
7. Based on the facts and the case authorities, 20 months imprisonment is deemed appropriate as the sentence start point.
8. In mitigation, Mr Nono Boe is a first time offender. He has no previous convictions. He has a clean record. He is given 2 months reduction to reflect his clean record.
9. He pleaded guilty at the first opportunity given to him by the authorities. An allowance of 33% of his sentence should be discounted. The balance of the sentence remaining was 12 months imprisonment.
10. No pre-sentence report was filed nor provided despite the Court direction to that effect. I accept the defence's submissions that he was remanded in custody on 26 April 2022 until sentenced. He has served more than 12 months in pre-custody period in Port Vila Correctional Centre from 26 April 2022 to his sentence on 9 May 2023. He has therefore already served the period of the end sentence. He is free to go.
11. Mr Nono Boe has a right of 14 days to appeal this sentence if he is unsatisfied with it.

Dated at Port Vila, this 9th day of May 2023

BY THE COURT


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Vincent LUNABEK
Chief Justice


REPUBLIC OF VANUATU
COURT OF APPEALS
SUPREME COURT
REPUBLICQUE DE VANUATU