

PUBLIC PROSECUTOR

v

TIMOTHY LENGA SAM

Defendant

Coram: *Justice Oliver A. Saksak*

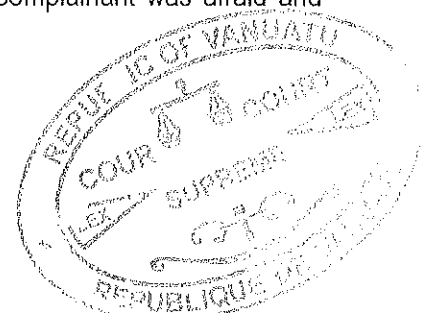
Counsel: *Ms Laura Lunabek for Public Prosecutor*
Ms Akineti Yeeon for the Defendant

Dates of Plea: *15th July 2024*

Date of Sentence: *19th July 2024*

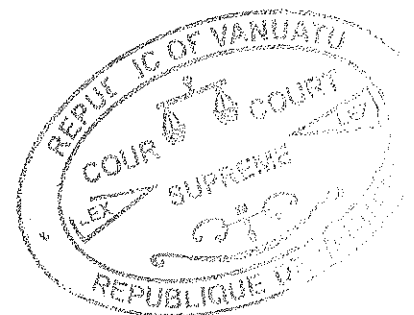
SENTENCE

1. Timothy Lenga Sam pleaded guilty to two charges of acts of indecency without consent contrary to section 98 (a) of the Penal Code Act. And he is for sentence today.
2. The offence carries the maximum penalty of 7 years imprisonment.
3. This offendings first occurred in May 2022 and continued in June, July, August, September, October, November and December 2022. Every week in each of those months, the defendant exposed his penis to the complainant Betina Dalina and masturbated himself in her presence without her consent.
4. The offendings occurred again on 6th January 2023 at about 4:30am when the complainant was awoken by her alarm clock. She turned the clock off only to be disturbed further by some noises outside. When she went outside to look, she saw the defendant standing with his pants down and masturbating himself with his right hand. The complainant threw stones at him but the defendant picked the stones up and threw them back at the complainant. The complainant was afraid and



reported the incidents to the Police to protect herself and her children, as her husband was overseas for seasonal work.

5. When the Police questioned the defendant, he admitted committing the lewd acts and explained that he did so because of his sexual urges being without any female partner.
6. There were no mitigating circumstances for those offences. But there were aggravating features such as a serious breach of trust, there were some degree of planning, the acts were deliberate and intentional. The acts were repeated over a period of 9 months. The acts were committed within the confines of the complainant's home where she was supposed to feel safe.
7. In assessing appropriate sentence I have considered the written submissions by the Prosecutions and defence counsel for which I am grateful. I have also seen the pre-sentence report submitted by Probation Service which indicates the defendant is a totally blind person since 1992. However there is simply no medical report confirming his blindness.
8. From the facts it is a cleat the defendant knew exactly by who the complainant was when he took steps to expose himself. He picked up stones and threw them at the complainant in return. He could walk about in the dark at 4:30am. He simply did not have any respect for himself and other people around him. And his repetitive actions makes the defendant a risk to the community.
9. Considering these factors together it is my view that he appropriate sentence for this offender is to be a custodial sentence. And I adopt a start sentence of 4 years imprisonment on each count to run concurrently. I therefore convict and sentence the defendant to a total of 4 years imprisonment as a concurrent sentence.
10. In mitigation first I consider his guilty plea and allow the full 1/3 remission being 1 year and 4 months. The balance of the sentence is 2 years and 8 months.



11. Next, I consider his clean past record and the delay together with the other factors personal to him including his pre-custodial period. I allow a final reduction of 8 months leaving his end sentence to be exactly 2 years imprisonment.

12. Considering the circumstances and the nature of the offences committed and the character of the offender, I consider that the defendant's sentence of 2 years should be suspended for a period of 2 years from the date of this sentence on good behaviour. If he commits any further offences within this period for which he would be charged and convicted, the defendant will go to prison to serve out his 2 years sentence.

13. That is the sentence of the Court. The defendant has a right of appeal within 14 days.

DATED at Luganville this 19th day of July 2024

BY THE COURT



Hon. OLIVER A SAKSAK

Judge

