

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

Criminal
Case No. 25/5 SC/CRML

PUBLIC PROSECUTOR

v

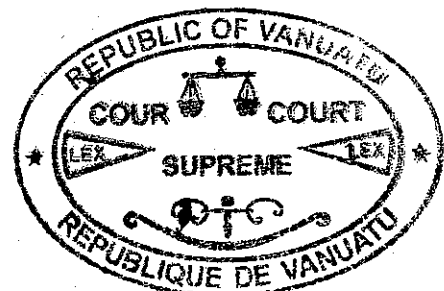
CLIFF ESTAPAS

Date: 30 October 2025
Before: Justice V.M. Trief
In Attendance: Public Prosecutor – Mr D. Liu
Defendant – Mr T.J. Botteng

SENTENCE

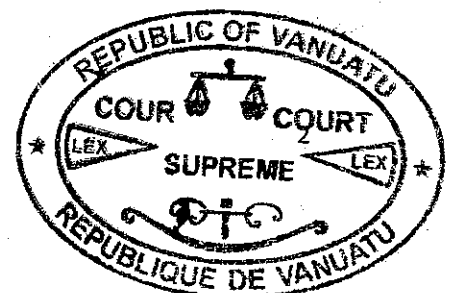
A. Introduction

1. Mr Cliff Estapas, also known as Cliff Reuben Estapas, and as Kominis, and as Cominis Ruben, you appear for sentence today having been found guilty after trial of sexual intercourse without consent contrary to ss 90 and 91 of the *Penal Code* [CAP. 135].
2. The maximum sentence prescribed in the *Penal Code* for this offence is life imprisonment.



B. Facts

3. In October 2024, the complainant IT (name suppressed) was asleep one night when you came to her house and called her. You told her that her boyfriend was waiting for her at the bush toilet. She recognized your voice and saw your face in the light of the solar light outside the house. You are a cousin brother of her father, she calls you, "Daddy."
4. IT came outside and followed you to the bush toilet by the garden. She saw that it was you as it was a moonlit night.
5. Beside the bush toilet, you squeezed IT's hand tightly and told her that if she did not remove her clothes, that you would tell everyone all her secrets. You made her lay down on the ground, you were not wearing a shirt but just your blue sportswear pants and forced her to remove her shirt and skirt, then you removed the rest of her clothes.
6. You lay down on top of IT's tummy and put your penis inside her vagina ("*Hemi karem aot bol blo hem, hemi pusum l kam lo malmal blo mi*"), she was crying and you had sexual intercourse with her until you ejaculated ("*Hemi stap tekem mi, mi stap cry, after mi luk wan white samting i ron aot lo bol blo hem*"). You also pushed your fingers into her vagina and licked her vagina. When you were pushing your fingers in and out of IT's vagina, she cried because it was painful. When you were having sex with her, she was crying and told you to stop but you held her tightly and continued ("*Time hemi stap tekem mi, time mi stap cry, mi talem se bae hemi stop, be hemi stap holem taet mi.*"). You told her that she must not tell anyone including her mum.
7. IT did not consent to the sexual intercourse. She was crying and told you to stop but you continued to have sexual intercourse with her.
8. In the circumstances in which you squeezed IT's hand tightly, forced her to remove part of her clothing and you removed the rest of her clothes, forced her to lay on the ground then held her tightly and while she was crying, you penetrated her vagina with your fingers and your penis, and licked her vagina, and told her that she must not tell anyone what had happened, you could not have believed on reasonable grounds that she was consenting at the time that the sexual intercourse occurred.

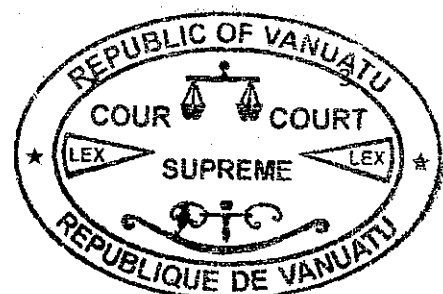


C. Sentence Start Point

9. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
10. There are no mitigating factors to this offending.
11. The aggravating factors of the offending include:
 - Breach of trust;
 - There was some planning involved;
 - The defendant lured the complainant to a secluded area where the sexual intercourse occurred;
 - The use of force and threats to effect the rape;
 - Unprotected sex which exposed the complainant to the risk of pregnancy and sexually transmitted infection;
 - Subjecting the complainant to further sexual indignities of digital penetration and licking her vagina;
 - The effects on the complainant including the pain and harm suffered; and
 - Telling the complainant not to tell anyone about the offending.
12. The factors set out above require a sentence start point of 9 years imprisonment.

D. Personal Factors

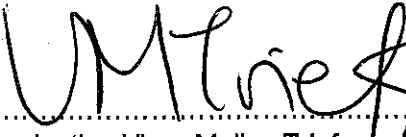
13. You are 39 years old. You reside at Vatop village on Vanua Lava island with your wife and 5 young children. You are a Year 3 leaver. You are a subsistence farmer. You make money from copra. Your family performed on your behalf a custom reconciliation with the complainant's family involving a pig, a mat, one head of kava and VT10,000 cash. Eleven percent (12 months) is deducted from the sentence start point for your personal factors.
14. You served time in custody from 25 November 2024 to 22 January 2025, an effective imprisonment term of 4 months therefore a further 4 months is deducted from the sentence start point.



E. End Sentence

15. Taking the foregoing matters into account, the end sentence imposed is as follows:
 - a. Sexual intercourse without consent – 7 years 8 months imprisonment.
16. In certain circumstances the Court can suspend all or part of the sentence. However, that is not possible due to the seriousness of the offending and the type of criminal conduct involved: *Public Prosecutor v Gideon* [2002] VUCA 7. There are no exceptional circumstances warranting suspension of sentence. I consider that the principles of specific and general deterrence, holding the offender accountable for his actions and protecting the community require to be met with a condign sentence. You are to begin serving your sentence today.
17. You have 14 days to appeal the sentence.
18. All details leading to the identification of the complainant IT are permanently suppressed.

DATED at Sola, Vanua Lava this 30th day of October, 2025
BY THE COURT


Justice Viran Molisa Trief

