

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

Criminal
Case No. 24/3451 SC/CRML

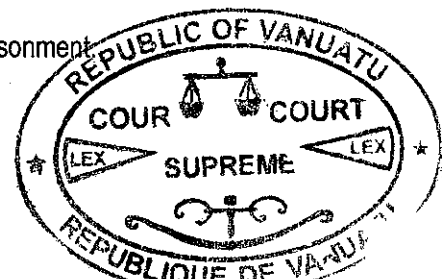
BETWEEN: PUBLIC PROSECUTOR

AND: ANTHONY SHEM MANUAKE
Defendant

Date of Sentence: 11 February 2026
Before: Justice M A MacKenzie
Counsel: Ms S Langon (holding papers for Mrs B Tamau) for the Public Prosecutor
Mr M Moli (holding papers for Mrs P Malites) for the Defendant

SENTENCE

1. Mr Manuake, you appear for sentence today in relation to 10 charges.
2. Following a trial, you were found guilty of the following 6 charges:
 - a. Charges 2 and 4 - domestic violence (victim - LT)
 - b. Charges 5 and 8 - sexual intercourse without consent (victims - LT and AG)
 - c. Charge 10 - act of indecency without consent (victims - LT and AG)
 - d. Charge 12- threats to kill (victims - LT and AG)
3. You entered pleas of guilty to the following 4 charges:
 - a. Charge 1 - domestic violence (victim - LT)
 - b. Charge 3 - intentional assault causing permanent injury (victim - LT)
 - c. Charge 7- escapes custody
 - d. Charge 13 - intentional assault (victim - LT)
4. The maximum penalties for the offences are:
 - a. Domestic violence – a term of imprisonment not exceeding 5 years or a fine not exceeding VT 100,000 or both.
 - b. Sexual intercourse without consent – life imprisonment.
 - c. Act of indecency without consent – 7 years imprisonment.
 - d. Threats to kill - 15 years imprisonment.
 - e. Intentional assault causing permanent injury under s 107(c) of the Penal Code - 5 years imprisonment.
 - f. Intentional assault under s 107(a) of the Penal Code – 1 year's imprisonment.



g. Escapes custody – 5 years imprisonment.

5. You were found not guilty of 5 other charges at trial.

The facts

6. The offending relates to two victims and spans the period between July 2023 and September 2024. One of the victim's was your partner, LT. The other victim, AG was a woman you wanted to have a sexual relationship with while still in a relationship with LT.

Charge 1 - domestic violence (LT)

7. On 28 July 2023, you physically assaulted your partner, LT in public. You went to LT's workplace at Tana Russet Plaza. She refused to follow you home, which made you angry. So, you punched and kicked her to her body. The assault was witnessed by LT's employer who shouted at you to stop.

Charges 2 and 3 – domestic violence (LT)

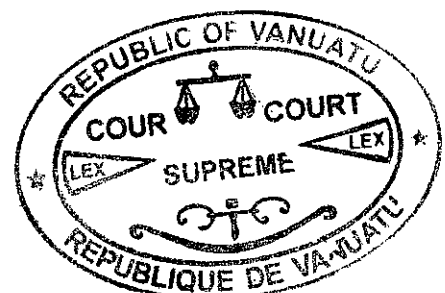
8. There was another assault in the early hours of 19 November 2023. You came home and were intoxicated. You started hitting LT because you wanted her to withdraw a statement she had made to police in April 2023 about an assault. You had also found out about some texts between LT and someone else. You dragged LT outside along the road in the direction of the Covenant Church. While she was on the road, you punched LT to the eyes, ribs, head, and face. LT fell onto the road after you hit her on the ribs. You then stood on her head as she was lying on the road. As a result, LT broke a tooth. LT's tooth ached, there was blood and her whole body was painful. The assault ended when you pulled her back into the house. The injuries sustained by LT were a black eye, scratches on her face and a broken tooth.

Charges 4 and 5 - domestic violence and rape (LT)

9. This incident took place a few days after the assault on the road on 19 November. You brought up the police report again. After arguing, you took LT to an empty property at Seven Star area. You then punched LT to the rib and stood on her leg. Then, you told LT to remove her clothes. She did so out of fear, as you threatened to kill her if she did not comply.

10. Once LT had removed her clothes, you opened her legs. You then took a small kitchen knife and started inserting it into her vagina. You pushed the knife in and out of her vagina, and as a result LT bled. LT told you to stop pushing the knife in and out of her vagina. Your response was to punch LT, who lost consciousness. She then walked slowly home. The next day LT escaped from the house and walked from Seven Star to Prima, where her mother lived. LT did not think she would make it to her mother's home. She felt dizzy and stopped for a while before carrying on.

11. LT's mother took her to the Vanuatu Women's Centre and then she went to hospital for treatment. LT remained in hospital overnight and was given some medication. LT went back to you after the November 2023 incidents.



Charge 7- escapes custody

12. On 28 December 2023, you were arrested by police and handcuffed. You escaped from the police station whilst still handcuffed.

Charges 8, 10 and 12, 13 - rape, act of indecency without consent, threats to kill (LT and AG), and intentional assault (LT)

13. This incident happened at the empty property at Seven Star between 2 and 3 September 2024. You and LT had resumed your relationship and were living together at Seven Star. You and AG met via Facebook. You had met in person on one earlier occasion before this incident. On 2 September 2024, you turned up outside AG's home. AG thought you had been drinking. You insisted that AG went with you to Seven Star, so she did. You took her to the unoccupied property at Seven Star.
14. At some point after you and AG arrived at the property, LT arrived and found you there with another female. She had gone there because she had received information that you had been seen with a girl walking along the Seven Star Road to a property. LT did not know AG, but slapped her because she was angry. You punched LT in the eye.¹ After that, you introduced LT and AG and told them to shake hands. You then told them to undress. They refused so you removed their clothes and told them to lie on the bed. Both LT and AG said "no" to having sexual intercourse with you, but you did so anyway. You had sexual intercourse with each of them, against their will. You directed both LT and AG to suck on each other's breasts while you had intercourse with them. You threatened to kill LT and AG on various occasions during this time. There was a knife on a small table, which you threatened LT and AG with. You told them that if they did not do as you said, you would cut them with the knife; stick it into them.

Sentencing purposes/principles

15. The sentence I impose must hold you accountable and must denounce and deter your conduct. The sentence should ensure you take responsibility for your actions and help you to rehabilitate. It must also be generally consistent.

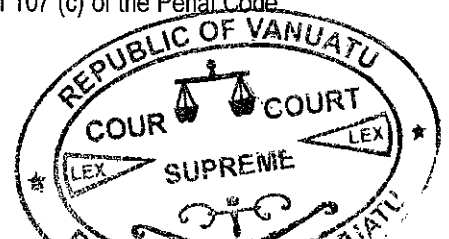
Approach to sentence

16. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

Starting point

17. The first step is to set a starting point to reflect the aggravating and mitigating features of the offending, and with reference to the maximum penalties for the offences.

¹ You pleaded guilty to charge 13, a charge of intentional assault contrary to section 107 (c) of the Penal Code. The particulars are that you assaulted LT twice on her face causing her pain.



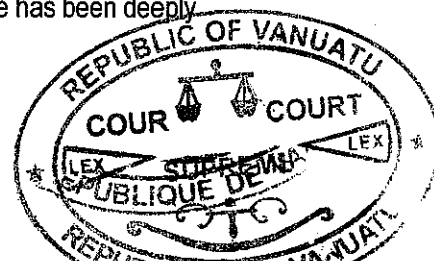
18. The Court of Appeal has discussed concurrent and consecutive sentences in a number of cases including *Kalfau v Public Prosecutor* [1990] VUCA 9, *Boesaleana v Public Prosecutor* [2011] VUCA 33 and *Apia v Public Prosecutor* [2015] VUCA 30. There is a useful summary of these cases in *Nampo v Public Prosecutor* [2018] VUCA 43.
19. In *Boesalana*, the Court of Appeal said:
- [6] There can be substantial debate as to the approaches which can be applied in sentencing. But it is essential that the Court does not become lost in formulae or arithmetic calculations but rather looks in a general and realistic way at the entire offending, assessing all relevant aggravating and mitigating factors, and then reaches a sentence which in its totality properly reflects the culpability which has been established.*
20. Where sentencing involves more than one victim and a number of charges, the Court of Appeal has said that it is often beneficial to decide what is the most serious offending and to impose a lead sentence on that which properly takes account of all aggravating factors and then to impose concurrent sentences in respect of other offending as that is appropriate.
21. Both Counsel submit that there should be a global starting point to reflect the totality of the offending, and correctly identify that the rape offending is the lead offending. The prosecutor submits that the appropriate starting point is 15 years imprisonment, and Mrs Malites submits that the appropriate starting point is 12 years imprisonment.
22. In the present case, the offending involves physical and sexual violence by you towards your partner LT between July and November 2023, and then the rape of LT and AG on 2 September 2024, with the associated violence and threats to kill.

LT - aggravating factors 2023 offending

23. I consider that overall, the aggravating factors are:

Assaults

- a. Scale -there were two separate assaults on LT in 2023 in public; firstly on 28 July 2023 and then on 19 November 2023.
- b. Breach of trust as you and LT were in a relationship, which was toxic and controlling. I infer you used violence to intimidate and control LT.
- c. The 19 November 2023 assault involved an attack to the head. LT was punched to the eyes, head and face. You also stood on her head when LT was lying on the road. At that point, she was vulnerable.
- d. LT sustained injuries in the 19 November assault, being a black eye, scratches to her face and a broken tooth.
- e. The effect on LT. After having listened to LT's evidence, it is clear that she has been deeply affected and traumatised by your actions towards her.

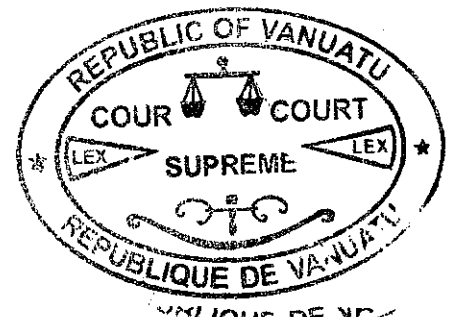


Rape - 22 November 2023

- f. Violence over and above the force necessary to commit the rape was used. You firstly punched LT and stood on her leg. Then when she told you to stop using the knife in her vagina, you punched LT to the point where she lost consciousness.
- g. The type of object used to penetrate LT's vagina. You pushed a knife, a lethal weapon, in and out of LT's vagina.
- h. LT suffered bleeding and dizziness as a result of the use of the knife.
- i. The effect on LT, as set out above.

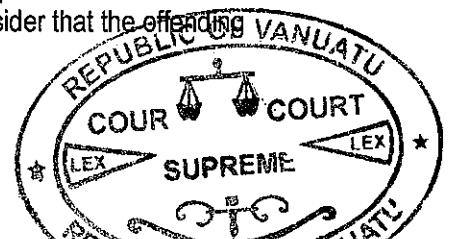
LT and AG - rape 2 September 2024

24. I consider that the aggravating factors of this offending are:
- a. There were two victims.
 - b. LT and AG suffered further indignities as each was forced to suck the other's breast while you had sexual intercourse with them.
 - c. Violence over and above the force necessary to commit the rape was used. You punched LT in the eye, because you were angry with her.
 - d. Use of a knife to threaten and intimidate LT and AG to ensure compliance with the request for sexual intercourse.
 - e. Repeated threats were made to kill LT and AG. Again, this was to instil fear in LT and AG so they would comply with your demand to have sexual intercourse with them.
 - f. The risk of pregnancy and sexually transmitted diseases due to unprotected sexual intercourse.
 - g. An element of detention. It may not have been prolonged but both LT and AG felt unable to leave the property at Seven Star.
 - h. The effect on LT and AG. This must have been a frightening and traumatic experience for both LT and AG. They were strangers before this incident.
25. Because the lead offending is rape, *Public Prosecutor v August* [2000] VUSC 73 and *Scott v Public Prosecutor* [2002] VUCA 29 apply. *Scott* is the guideline case for rape. According to *Scott*, where a rape is committed without any aggravating or mitigating factors, the starting point is 5 years imprisonment. The Court also said that:



" . At the top of the scale comes the defendant who has committed the offence of rape upon a number of different women or girls. He represents a more than ordinary danger and a sentence of 15 years or more may be appropriate."

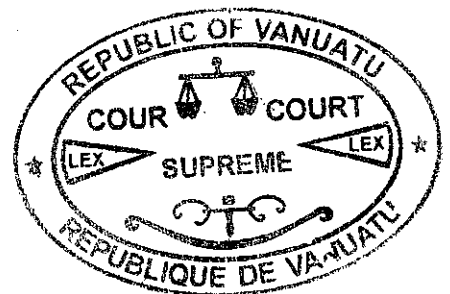
26. As detailed in *Scott*, rape is aggravated by various factors, including the use of a weapon and when violence is used over and above the force necessary to commit rape. These two factors are present in both rape incidents to a significant degree.
27. As the Court of Appeal said recently in *Meltek v Public Prosecutor* [2025] VUCA 41, sentencing is not an exact science because the circumstances will vary, so comparisons with other cases are at best an imprecise guide.
28. Mrs Tamau's contention that the appropriate starting point is 15 years imprisonment on a global basis is based on *Scott v Public Prosecutor* and *Public Prosecutor v Sau* [2024] VUSC 387. I accept that *Sau* has some similarities with the present case, particularly the September 2024 incident involving both LT and AG. Mr Sau raped two on three occasions between 13 and 15 March 2024. He was in, or had been in, a de facto relationship with both women. Mr Sau was living with one of the women and his initial partner returned to the home on 13 March 2024. The two women were forced to remove their clothes and told to obey Mr Sau's orders. They were forced to suck on each other's breasts and vaginas. Mr Sau had sexual intercourse with each of them. There was vaginal sex with one victim and then anal sex with the other victim. Both victims complied because they were intimidated. This was repeated on the 14th and 15th March 2024.
29. Then on 19 March 2024, Mr Sau physically assaulted one of the victims. He became angry, took a broom and hit the victim on her hand and backside with a broom. He grabbed a knife and wanted to cut the victim with it but she ran and jumped over the fence. Mr Sau used the knife and caused damage to the house and household items. The starting point imposed by the Supreme Court was 15 years imprisonment for the lead offending of rape. Concurrent sentences were imposed for the balance of the offending.
30. Mrs Malites cited *Kavila v Public Prosecutor* [2022] VUCA 36 to support her contention that the appropriate global starting point is 12 years imprisonment. In *Kavila*, Mr Kavila and his wife took the victim (a relative of Mr Kavila's wife) to their home on a pretence, where she was subjected to various sexual indignities by Mr Kavila and his wife. The victim was fearful, intimidated and reluctantly participated in the sexual conduct. Mr Kavila sucked on the victim's breasts and vagina and digitally penetrated her vagina whilst his wife sucked the victim's breasts and vagina. She then had to perform sexual acts on Mr Kavila and his wife. Mr Kavila then had sexual intercourse with the victim on five occasions between 13 and 16 February 2017. On appeal, the Court of Appeal said that the rape offending was aggravated by the presence of several of the *Scott* factors and that the totality of the offending would be adequately reflected in the starting point of 16 years imprisonment.
31. Because the November 2023 rape of LT did not involve penile penetration, the Court of Appeal cases of *Public Prosecutor v Andy* [2011] VUCA 14 and *Nampo v Public Prosecutor* [2018] VUCA 43 are relevant. Both *Andy* and *Nampo* involved digital penetration. *Nampo* in particular is of assistance because of the observations about penile penetration as opposed to other forms of penetration of the vagina, as I will discuss.
32. In *Andy*, the Court of Appeal fixed a starting point of six to seven years imprisonment. The case involved single incident of digital penetration of a 10-year-old victim. I consider that the offending



here to be more serious given the type of object used to penetrate LT's vagina and that she was knocked unconscious.

33. In *Nampo*, there is a helpful discussion about penile sexual intercourse as opposed to other forms of penetration of the vagina. The Court reiterated that it has been clear law in Vanuatu that penile intercourse as opposed to other forms of penetration of the vagina is "more serious" and "more physically intrusive". *Nampo* involved three charges of rape by digital penetration. The victims were the appellant's three daughters aged 5, 14 and 17 years respectively. The offending occurred over a 12-month period. On appeal, the Court said that the appropriate starting point for each rape charge was 8 years imprisonment.
34. I have considered two other Court of Appeal cases, *Vuti v Public Prosecutor* [2017] VUCA 14 and *Obed v Public Prosecutor* [2019] VUCA 42. Both provide some assistance in setting the appropriate starting point for the rape on 2 September 2024.
35. *Vuti* was an appeal against a sentence imposed by the Supreme Court for two charges of sexual intercourse without consent and one charge of intentional assault. The victim was his partner and the rapes occurred a short time apart.² Mr Vuti saw the victim with another man, assaulted both of them and then dragged the victim to a house at the end of the airport. He assaulted the victim again, made threats to her and forced her to have sexual intercourse. The physical and sexual abuse continued for some days until the victim decided to go to the police. On appeal, the Court said that taking two rapes together, it could not be said that a starting point of 12 years would have been excessive.
36. In *Obed v Public Prosecutor*, Mr Obed appealed the sentence imposed for six charges of rape. Five related to his adopted daughter and one charge related to his wife. Mr Obed raped his wife and daughter on seven occasions over a period of 18 months. On appeal, the Court considered that the appropriate start sentence for the offending was 16 years imprisonment given the very serious intrusive nature of the sexual assaults, that the offending involved a second complainant his wife in depraved circumstances, the breach of trust and likely destruction of the family unit.
37. While I agree that a global starting point should be set, it is helpful to assess the separate starting points for each of the rapes as a cross check.
38. The November 2023 rape of LT involved penetration of LT's vagina with an object, a knife. A knife is capable of inflicting lethal harm. While the law is clear that penile penetration is more serious and intrusive than digital or other types of penetration, the November 2023 rape is at the serious end of the spectrum for a rape not involving penile penetration. That is because it involved a breach of trust, the lethal nature of the object used to penetrate LT's vagina and the serious violence used. Not only did you punch LT before you put the knife into her vagina, but when she told you to stop using the knife, you knocked her unconscious. Your actions were degrading and controlling. I assess that on a standalone basis the starting point would be in the vicinity of 8 years imprisonment, given the aggravating factors present. The type of object used, the breach of trust and the level of violence are significant aggravating factors.

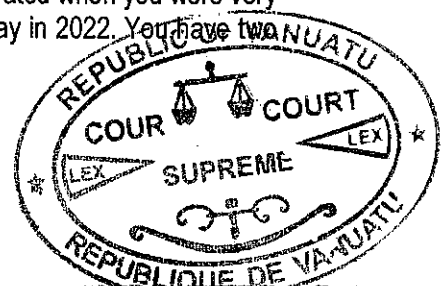
² There is very little discussion about the second rape



39. In terms of the 2 September 2024 incident involving both LT and AG, it involved two victims, a breach of trust in relation to LT, sexual indignities, presence of a knife to instil fear and ensure compliance with your sexual demands, threats to kill and violence towards LT, which AG witnessed. On a standalone basis and with reference to the aggravating factors I have referred to, I consider that the starting point would be significantly more than 5 years imprisonment, but less than the 15 years starting point adopted in *Public Prosecutor v Sau*. That is because *Sau* involved three separate rape incidents of the 2 victims. I consider that the starting point on a standalone basis for that rape would be in the vicinity of 10 years imprisonment, taking into account the aggravating factors I have referred to. Key aggravating factors are the breach of trust relating to LT, the presence of the knife and the threats to kill to instil fear to ensure compliance with your sexual demands.
40. In order to assess an appropriate global starting point for the rape incidents that reflects the totality of the offending, it is a matter of standing back, and ensuring the overall starting point reflects your culpability, and is proportionate. Your relationship with LT was violent and controlling. It culminated with you treating her as your punching bag and sexual plaything. Overall, the offending involves two rapes, and two victims. Each of the rape incidents is serious, albeit for different reasons. Then there is the violence towards LT in July and November 2023, pre-dating the rapes. Taking the aggravating factors into account, the cases I have referred to, and the individual starting points I consider appropriate for the 2 rapes, I adopt a global starting point for the rape offending of 14 years imprisonment. That reflects the scale of the rape offending, the fact that there are two victims of the second rape, and the violence towards LT.

Guilty plea and personal factors

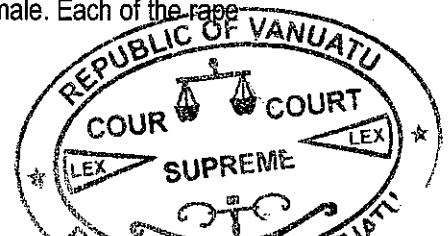
41. You are not entitled to a reduction for a guilty plea in relation to the charges you took to trial. You did however plead guilty to 4 charges being domestic violence (charge 1), intentional assault (charge 3), escapes lawful custody (charge 7), intentional assault (charge 13). The guilty pleas did not result in much of a saving of time and resources.
42. The only assault LT did not need to give evidence about was the incident at Tana Russet in July 2023 (charge 1). While you pleaded guilty to the 19 November 2023 assault (charge 3) you disputed the factual circumstances, so LT was required to give evidence about that incident. She was cross-examined extensively. LT also gave evidence about the assault which formed the basis of charge 13 because that was part of the 2 September 2024 rape incident involving LT and AG at Seven Star. Both LT and AG gave evidence about that assault.
43. The rationale for a reduction for a plea of guilty is discussed in *Nampo v Public Prosecutor*. It includes showing an acceptance of responsibility for actions, which in my view is important for LT, who is deeply traumatised about the physical and sexual violence towards her. So, there is some benefit to your guilty pleas, as it showed LT you have accepted responsibility for some of the violence towards her. I agree with Mrs Malites that the only realistic way of taking the guilty pleas into account is to reduce the global starting point. They were early guilty pleas but a very modest reduction only is warranted, given that LT was still required to give extensive evidence about, the violence, including 2 of the charges you pleaded guilty to. I reduce the sentence by 10 months, which is 6 %.
44. You are aged 20 years and come from Emae island. Your parents separated when you were very young and you were raised by your grandparents until they passed away in 2022. You have two previous convictions for domestic violence and threats to kill.



45. At the time of the offending, you were aged 18 and 19 years old respectively. You were relatively young. In *Public Prosecutor v Tulili* [2024] VUCA 54, the Court of Appeal acknowledged the special consideration given in sentencing to youth. The rationale is that the young are more prone to ill considered, rash actions. The young do not always appreciate that the nature, seriousness and consequences of the criminality of the conduct. There is the potential for the young to be rehabilitated and the prospect that incarceration may be more like to impair rather than improve the prospect of a successful rehabilitation.
46. I accept that the sentence should be reduced to take account of your relative youth at the time. In that regard, Mrs Malites referred in her submissions to the 20 month sentence reduction for an 18 year old in *Korthy v Public Prosecutor* [2019] VUCA 19. Mrs Malites submits that a 20-month reduction, similar to that applied in *Korthy* be applied here. *Korthy* involved a rape of a female victim by three men. I agree that the sentence should be reduced to reflect your relative youth. It is likely that the drivers of your offending include immaturity, poor decision making and a lack of exposure to good role models. The sentence is reduced by 20 months for that factor. That a reduction of approximately 12 %.
47. While I acknowledge that you have relevant previous convictions, I do not consider that the sentence needs to be increased for that factor. The purpose of an uplift for previous convictions is generally to reflect the need for deterrence. The reality is that you will be sentenced to a lengthy term of imprisonment which in and of itself is sufficient to meet the need for deterrence here.

End Sentence

48. The end sentence is 11 years 6 months imprisonment. You are sentenced to 11 years 6 months imprisonment concurrently for each rape charge (charges 5 and 8).
49. I impose the following concurrent sentences for the balance of the offending:
- a. Charge 1- domestic violence – 1 year imprisonment. (LT- 28 July 2023)
 - b. Charges 2 and 3 - domestic violence - 2 years imprisonment. (LT- 19 November 2023)
 - c. Charge 4 - domestic violence - 2 ½ years' imprisonment. (LT- 22 November 2023)
 - d. Charge 7- escapes custody – 1 year imprisonment.
 - e. Charge 10 - act of indecency without consent - 2 years imprisonment. (LT and AG- 2 September 2024)
 - f. Charge 12 - threats to kill - 4 years imprisonment. (LT and AG - 2 September 2024)
 - g. Charge 13 - intentional assault - 6 months imprisonment. (LT- 2 September 2024)
50. I am not asked to suspend the sentence. For the sake of completeness, I will address the issue of suspension. Under section 57 of the Penal Code, there is a discretion to suspend an imprisonment sentence. I must take into account the circumstances, the nature of the offending and your character. In *Public Prosecutor v Gideon* [2002] VUCA 7, the Court of Appeal said that it will only be in the most extreme of cases that suspension could ever be contemplated in a case of sexual abuse. That was reaffirmed by the Court of Appeal in *Tulili v Public Prosecutor* [2024] VUCA 54.
51. It is a matter of weighting and balancing the factors which point towards suspension and those which point towards away from suspension. This is very serious offending. You are were both physically and sexually violent towards your partner. You raped another female. Each of the rape



incidents had serious features. While you were relatively young, you are not a first offender. The circumstances, both in relation to the offending and you personally, are a long way from being exceptional or extreme so as to warrant suspension of the sentence. Accountability, deterrence and denunciation are important sentencing purposes, given the overall nature of the offending. A stern response is needed. The sentence will not be suspended.

- 52. The sentence is to commence immediately. You have been remanded in custody since 12 September 2024. Accordingly, the sentence start date is backdated to commence on 12 September 2024.
- 53. You have 14 days to appeal against the sentence.
- 54. I make a permanent order suppressing the names and identifying details of both victims.

DATED at Port Vila this 11th day of February 2026
BY THE COURT

M A MacKenzie

Justice M A MacKenzie

