

REGINA -v- ERIC TOADA & FIVE OTHERS

High Court of Solomon Islands

(Ward C.J.)

Criminal Case No. 20 and 21 of 1989

Hearing: 8 April 1990

Sentence: 8 April 1990

Director of Public Prosecutions in person

Accused 1 - 6 represented by P. Watts

WARD CJ: Defilement is a serious offence. The law is for the protection of the girl herself and that is why consent is no defence.

In the case of Eric Toada, the case is aggravated by the fact that he was the person who first corrupted 3 girls. In the case of Salome Theola she was only 11 years old. I have only convicted him of indecent assault but the degree of corruption of her morals was virtually the same as if sexual intercourse had occurred.

In the case of Sadaline Gaseloku she was only just 14 years. However that case is made worse by the degree of force needed and the fact she was a pupil at that time in the school where he was a trainee teacher.

In the case of Loretta Jessie, the effect such initial corruption can have on a young girl is only too plain to see from her subsequent conduct.

I regard his case as particularly serious. He was training for a career that deals exclusively with young people. As such parents will place trust in him. I do not feel he should ever be allowed to teach young girls.

The sentence in this case must reflect the number of children involved, the breach of trust and show others the consequences of such acts. He has caused distress and concern to the parents of three young children.

On the other hand I allow for his plea of guilty and his previous good character. Both reduce the sentence substantially. Whilst I accept he was relatively young when some of these offences occurred, I feel the fact he was training for teaching must have made him more conscious of the illegality of his actions.

File 20/89

Count 1 - Salome - 18 months imprisonment
 Count 2 - Sadaline - 18 months imprisonment

Concurrent with each other

File 21/89

Count 2 - Loretta - 18 months imprisonment
 Count 3 - Loretta - 18 months imprisonment

Concurrent with each other but consecutive to file 20/89

i.e. 18 months + 18 months = 3 years imprisonment.

All remaining accused, I take into account the fact that you have all pleaded guilty and I reduce your sentences on that basis.

I accept also in all cases that you had heard of this girl's promiscuity before you had sexual intercourse with her. It has been urged by Mr Watts that the girl was already corrupted by the time you were involved and he quotes the comments of Wood CJ in R. v. Nathaniel Laothenga & Ors 13/85. I am afraid I cannot accept the suggestion made by my learned predecessor in that judgment. Whilst the initial corruption of a young child is particularly serious, the law will continue to protect her from herself if necessary until she is of age. Each act was a further act of corruption by each of you.

I also note that in some cases she was under thirteen and in the rest she was just over thirteen, I allow little for the distinction. All these offences occurred over a short span of a few months and she was a very young girl by any standards.

I also allow for your relative youth.

DANIEL KUATA MANELEGUA

You were older than the rest. It was only a few years but those critical years should have given a much clearer idea of the seriousness of the offences you were committing. You have previous convictions which show a general disregard for normal social standards.

I allow for your plea of guilty and the fact only one incident is involved. I also attach weight to your apology.

15 months imprisonment.

JOHN GETU VAKASO

I allow for your youth and the fact that imprisonment will hit harder by causing you the loss of a job. You have pleaded guilty and have no previous convictions.

Count 5	-	Indecent Assault	-	9 months imprisonment
Count 6	-	Defilement	-	12 months imprisonment

Concurrent - i.e. 12 months in all

MASON NAMO

You also were young at the time and have no previous convictions.

You have pleaded guilty and have taken the initiative to write your mitigation and apology. I give credit for that.

I also note that, in your case the girl initiated the offence by waking you in the night. I accept in such a case it is more difficult to resist.

Count 7	-	indecent assault	-	9 months imprisonment
Count 8	-	defilement	-	9 months imprisonment

Concurrent - i.e. 9 months imprisonment in all

PATRICK JIMMY

Again I allow for your youth, your plea of guilty and I treat you as of previous good character.

Also you have a job and will lose it because of the sentence.

Count 9	-	indecent assault	-	9 months imprisonment
Count 10	-	defilement	-	12 months imprisonment
Count 11	-	defilement	-	12 months imprisonment

All concurrent - i.e. 12 months imprisonment.

HUGH BOGESE

The same considerations apply. Only one offence and that is indecent assault. You are also the youngest of the accused.

Count 12 - indecent assault - 6 months imprisonment

Informed of Right to Appeal.

(F.G.R. Ward)
CHIEF JUSTICE