

REX

-V-

SEMISI VAIANGINA

BEFORE THE HON. JUSTICE SHUSTER

HAVING HEARD - Crown Counsel, and from the defendant in person.

The defendant appears for sentencing today - having pleaded guilty on arraignment on 19<sup>th</sup> January 2012; to an indictment, alleging five counts of Indecent assault on a young girl, under 16 – On 19<sup>th</sup> January 2012 the case was adjourned for the preparation of a Pre-Sentence report and the defendant was remanded on bail for the preparation of that report.

It should be noted that the defendant is a first time offender, and to his credit he had fully admitted his part in offending - to the police and to this court.

#### THE BRIEF FACTS

The prosecution claims - that in March 2009 the defendant was involved in an incident when he kissed his victims face and he fondled her breasts without her consent. The Crown says the defendant committed the same and similar types of offences in 2009 and, in February, April and September of 2011.

After a complaint was made to the child's mother, the matter was reported to the police and the defendant was arrested. The defendant admitted the offences to the police and to this court on his first appearance at

arraignment. The defendant told the court that he had apologized to his victim and the apology has been accepted by the victims family.

On 20th February 2012 the defendant appeared for sentencing. Having considered all the facts of the case, including the contents and recommendations of the PSR.

I have considered the fact that the defendant pleaded guilty on first arraignment and the fact the defendant co-operated with the police and with this court – and that he has apologized to his victim.

I told the defendant my starting point for this type of serious offending- involving a sexual attack on a victim of tender years, by a man of 37 years of age, twice the child's age, would be a sentence of between 12 - 15 months imprisonment – BUT that would be based on a NOT guilty plea.

**After considering all the facts the defendant is sentenced as follows:-**

**Count 1** – The defendant is fined \$200.00.

**Count 2** – The defendant is fined \$200.00.

**Count 3** – The defendant is fined \$200.00.

**Count 4** – The defendant is fined \$200.00.

**Count 5** – The defendant is fined \$200.00 and he is placed on Probation for three years.

FURTHER the defendant is ordered to enroll in and to complete the WOMEN'S CRISIS COUSSELLING SERVICE within 6 months for today's date.

**PAYMENT OF THE FINE OF \$1,000.00**

The defendant told the court he was unable to pay the TOP\$1,000.00 fine by 16.00 hours today so the defendant is ordered to pay the sum of \$20.00 per week until the payment of TOP\$1,000.00 is paid in full.



Each payment of \$20.00 is to be made to the Supreme Court Registry by 12.00 on the Friday - of each week.

The first payment of \$20.00 is due on Friday 17<sup>th</sup> February 2012 - by 12.00 in default of payment the defendant will serve eight - months imprisonment.

The defendant can pay more than \$20.00 each week - but he cannot pay less than \$20.00 TOP each week, and his payments must be regular.

I certify I have warned the defendant about committing any further offences and of the consequences of failing to pay his fine of TOP \$1,000.00 or, of failing to enroll in, and completing the Womens Crisis Centre Programme. The defendant indicated he understood.

This is to be a deterrent sentence, applying the principles enunciated in the case of - Crown -v- Cunningham

A Copy of these sentencing remarks are to be served on the defendant, and also the Probation Service

DATED 10<sup>th</sup> February 2012



*Shuster J.*  
JUDGE