

(Criminal Jurisdiction)

**PUBLIC PROSECUTOR – VS – WILFRED JOE**

**Coram: Mr Justice Oliver A. Saksak  
Ms Cynthia Thomas – Clerk**

**Counsel: Mrs Linnes Moli for the Public Prosecutor  
Mr Chris Tavoia for the Defendant not appearing**

**SENTENCE**

To the Defendant appearing personally.

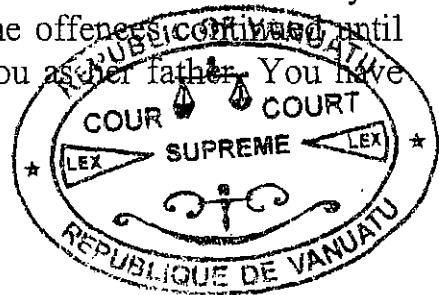
You are charged with Indecent Assault under section 98(1), and with two counts of Sexual Intercourse with child Under Care and Protection under section 96(1) of the Penal Code Act [Cap. 135].

Indecent Assault carries a maximum of 7 years imprisonment and Sexual Intercourse with Child under care carries a maximum of 10 years imprisonment. You pleaded guilty to these charges and accordingly you are convicted. Altogether you could be imprisoned for 27 years.

In sentencing you today, I have considered the mitigating factors submitted on your behalf by your Counsel, Mr Tavoia and allow some credit for your admissions to the police, your guilty pleas to this Court to save the child from testifying in Court, to your remorse and contrition leading to a public confession, and your promise never to repeat these offences.

I was invited by Mr Tavoia to consider other sentencing options apart from imprisonment. However this is not a case in which imprisonment could be avoided.

This girl is your adopted daughter. She was 14 years old in 2002 when you started committing these offences on her. And the offences continued until November 2003. The girl was impregnated by you as her father. You have



broken that trust laid on you as the father to care and protect her. Instead you abused her and have caused her irreparable damage that she will live with all her life.

I have, in assessing your punishment considered and applied the sentencing principles laid down by the Court of Appeal in the cases of Peter Talivo v. Public Prosecutor (1996) and Public Prosecutor v. Keven Gideon (2003). I have also considered and applied the principles followed by this Court in Public Prosecutor v. Aitip (2003); Public Prosecutor v. Niurie (1994) and Public Prosecutor v. Raymond (1995)

Based on the principles laid down in the above cases, I consider that I should impose prison sentences on you to mark the seriousness of these offences and the public's disapproval of such behaviour as a general deterrence.

I therefore sentence you as follows: -

- (1) Count 1 - Indecent Assault – 1 year imprisonment.
- (2) Count 2 - Sexual Intercourse with child under care and protection – 2 years imprisonment.
- (3) Count 3 - Sexual Intercourse with child under care and protection – 2 years imprisonment.

Total – 5 years imprisonment.

These terms will be served consecutively and will commence immediately today. It includes the 2 months that you have spent in custody from 16<sup>th</sup> January, 2004.

You may appeal with 14 days if you wish.

**DATED at Luganville this 16<sup>th</sup> day of March, 2004.**

**BY THE COURT**

*Oliver A. Saksak*  
**OLIVER A. SAKSAK**

**Judge**

