

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

JEAN KARL

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

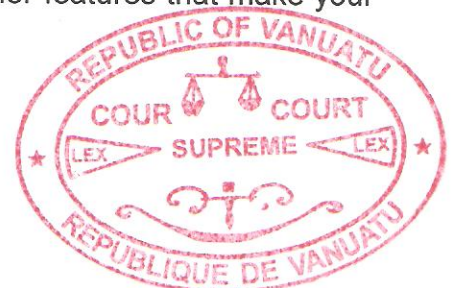
Mrs Kayleen Tavo – Public Prosecutor
Mr Henzler Vira for the Defendant

SENTENCE

1. Jean Karl you entered a plea of guilty on 15th March 2010 to one charge of Act of Indecency with Young Person contrary to section 98(a) of the Penal Code Act Cap. 135. The Court hereby convicts you accordingly.

2. You are only 11 years old but your actions are those of an adult. You deserved to be punished as an adult but because of section 54 of the Act, the Court will not impose a custodial sentence on you. There are however other options which the Court can use to sentence you so that-
 - (a) You are punished adequately for your offending,
 - (b) You or any others are deterred from offending in a similar way.

3. Your victim was a 5 year old girl still a baby and you are still a “baby” too, but your actions indicate otherwise. Other features that make your offending serious are that –



- (a) There was a breach of trust.
 - (b) There were attempts to penetrate the victim 4 times.
 - (c) She was in pain and no attention was given to her.
 - (d) There was ejaculation on the vagina.
 - (e) There was a tear of 0.5 cm on the libia minora.
 - (f) There was redness around the private part region.
 - (g) You left her exposed on the floor.
4. To let you off because of your age as a minor under section 54 of the Act could be seen as an encouragement by the Court that other men or boys can take advantage of and abuse very young girls and children. This must not be allowed to happen.
 5. For those reasons, the Court is of the view that you should be punished by awarding a community based sentence.
 6. I therefore sentence you to Community Service for 40 hours to be served within 12 months from today. This sentence is imposed under sections 58N and 58 P(1)(a) of the Act. The power of the Court to impose a substituted or alternative penalty in lieu of a penalty of imprisonment is available to the Court under section 58 B of the Act as amended.
 7. That is the sentence of the Court.

DATED at Luganville this 18th day of March 2010.

BY THE COURT


OLIVER A. SAKSAK
Judge

