

**PUBLIC PROSECUTOR -v- STEWARD TAMLA**

**Coram:** Chief Justice Vincent Lunabek

**Counsel:** Mr Tristan Karae for the Public Prosecutor  
Mr Eric Molbaleh for the Defendant

**SENTENCE**

Mr Steward Tamla, you appear today before the Court for your sentence.

On 3 May 2011, you entered a guilty plea on one charge of Act of Indecency with a young person, contrary to section 98A of the Penal Code Act [CAP.135]

Section 98A reads:

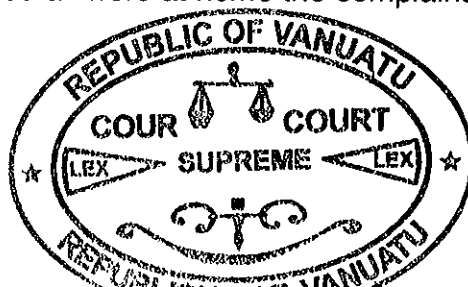
*"A person must not commit an act of indecency upon, or in the presence of another person under the age of 15."*

This offence attracts a maximum penalty of 10 years imprisonment. It is a very serious offence as reflected in the maximum penalty imposed by law.

The facts are provided by the prosecution. On your behalf, your lawyer accepts these facts. They are set out as follows:

You are 37 years of age and the complainant in this case is a girl of 8 years of age. On or about the 5<sup>th</sup> of March of 2011, you were asked by the complainant's father to help him and some other family members to go do some clearing and cleaning on a piece of land at Erakor area belonging to the complainant's father. You were a well known person and as you very helpful to your community.

After you and others had done the clearing you and others came for lunch at the home of the complainant's father. While you all were at home the complainant's father



was outside cutting 'the grass when he told the complainant to go and have a shower. The complainant walked towards the house and was grabbing onto her towel when you were also in the house, you grabbed the complainant's right breast. The complainant made gestures of refusal and disapproval and went to the shower.

Later that evening some of the families came at the complainant's father's home with kava and you all joined for the kava session until 11.00pm o'clock. Most of the families had already gone and you went to get another bottle of kava for yourself. When you returned the complainant's father gave you a towel and told you to go and have a shower and he told you to sleep in one of the bedrooms upstairs.

It was around 1.00am in the morning when the complainant felt that her anus was itchy so she got up and moved her mattress to the floor. Later on she woke up again and saw you were covered in a towel and you were kneeling over her and you had your hand inside her panty and you were touching her anus. When she felt and saw this she grabbed your hand and pushed it away. You then got up and climbed up the ladder to your room upstairs.

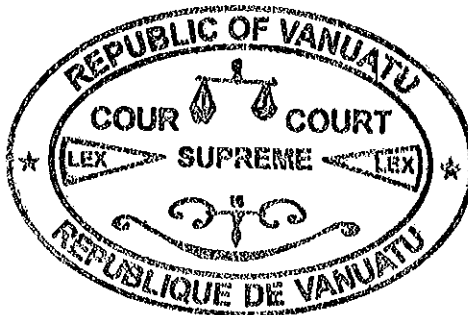
The complainant then told her mother few days later after her mother noticed that the complainant did not want to get in the bus because you were sitting in the bus. She asked the complainant why but she refused a few times to tell her. She later told her mother about what had happened and the complainant's father called you to which you admitted to him of what you had done to the little girl.

You were brought in for questioning at the police station and you admitted to the allegations.

When I sentence you, I take into account and consider the prosecution submissions and submissions filed by your lawyer on your behalf. I also consider the pre-sentence report filed by the Probation Office dated 6 June 2011.

The offence of Indecency with a young person, contrary to section to section 98A is a serious offence. Your offending is aggravated by the following factors:

- your repeated your offending on the girl twice;



- There is between you and the girl a substantial difference of age as you are an adult and mature man of 37 years of age and the complainant is a small girl of 8 years of age. She is very vulnerable to your offending.
- Although there was no report made on the long term impact of your offending on this girl, there is evidence that she refused to be in the same bus in your presence or in your company.

I sentence you to 5 years imprisonment as a starting point.

In mitigation, I take into consideration that you are a first time offender, you are remorseful and you maintain good contribution to your community and after proper discount of your guilty plea and give some allowance of your pre-custodial sentence, I arrive at an end sentence of 3 years imprisonment.

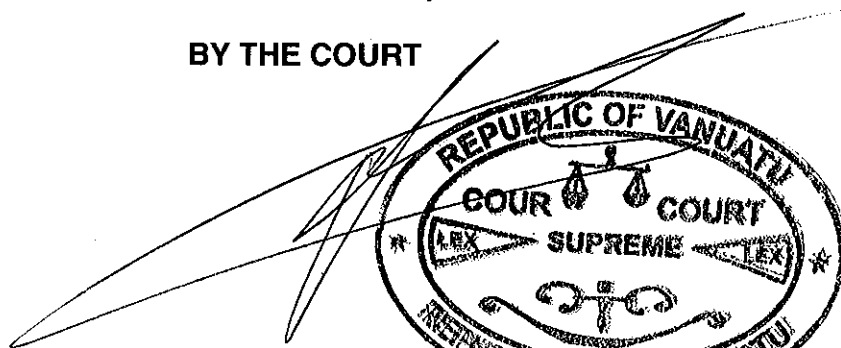
I decide not to suspend your sentence because you have to serve it as your own punishment and it will deter others not to commit the same type of offending on children. Finally, your immediate custodial sentence marks the Court's disapproval of your behaviour and reflects the Court's duty to protect children and especially small innocent and vulnerable girls in the society.

You are ordered to serve 3 years imprisonment with immediate effect from today 24 June 2011.

You have 14 day to appeal this sentence if you are not happy with it.

**DATED at Port-Vila this 24<sup>th</sup> day of June 2011**

**BY THE COURT**



**Vincent LUNABEK**  
**Chief Justice**

