

**IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU**  
*(Criminal Jurisdiction)*

**Criminal Case No. 58/ 2011**

**PUBLIC PROSECUTOR**

**V**

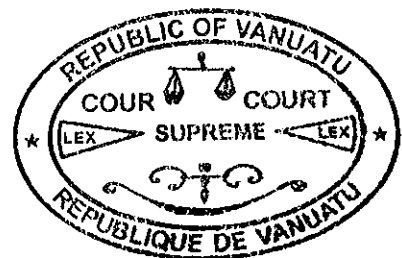
**GLERIS MULUAN**

*Hearing: 21 September 2011*  
*Before: Justice Robert Spear*  
*Appearances: Tabisa Harrison for the State*  
*Jacob Kausiama for the Prisoner*

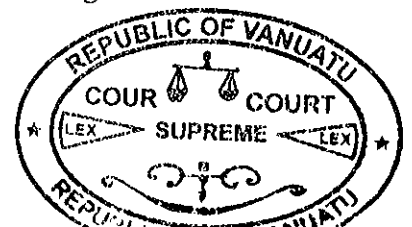
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**SENTENCE**

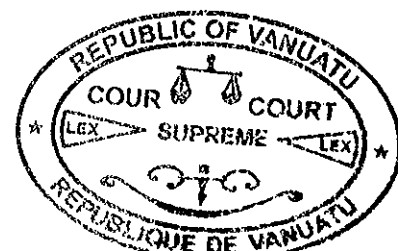
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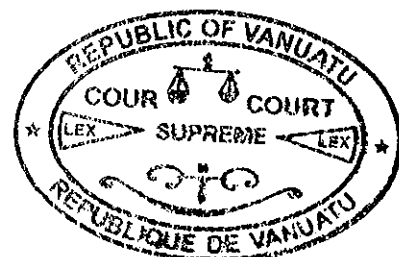
1. Gleris Muluan, you are for sentence having pleaded guilty to one count of abandoning an incapable person and another count of failing to provide the necessities of life. A summary of facts has been presented by the Public Prosecutor and no dispute is taken by you with it. To a significant extent, that brief summary of facts is elaborated on by the pre-sentence report that I have also received.
2. The short position is that you fell pregnant to a work colleague although the relationship with that work colleague finished when you are about 2 months through your pregnancy. You kept the fact of your pregnancy to yourself and, in particular, did not consult or share this information with your family. In particular, you did not go to your parents and explain the difficulties that you were in.
3. As it happened, the labour came on prematurely and at a time when you did not expect it. You delivered the baby yourself, in your home, and then took it into the bushes and left it there.
4. The pre-sentence report indicates that you were aware that young boys were playing in that area in the bush and that you were confident that the child will be found. You then went back and cleaned up the house to hide the fact that you had given birth.
5. The baby was indeed found. It had been wrapped up in a plastic bag but it was still covered in blood having been born only a very short time earlier that day. A local lady took charge of the baby, she cut the umbilical cord, cleaned up the baby and took it to hospital. The baby had to be placed in an incubator obviously because of the trauma surrounding the birth but also because she was premature.
6. That lady who took care of the baby has become attached to the baby which is not surprising given the unusual circumstances in which she became involved with it. As I understand matters the baby is now living with her.



7. You have mentioned to the probation officer that you would like the baby returned to you. That is another matter entirely and I do not propose to deal with that except in one respect. It indicates that you are likely to be in a more stable frame of mind than you were at that time. That state of mind is what I want to focus on.
8. It is abundantly clear that you were confused and you felt desperate and alone at the time that you went into labour. The decisions that you made are, from an outsider's point of view, shocking but, of course, you were the one in that difficult position and you made a very poor decision indeed. You placed your baby's life at risk and you would have been facing a charge of intentional homicide if your baby had died.
9. You were 29 years of age when you fell pregnant and so you were certainly not a naïve young teenage girl. You were a woman of some maturity of age and work experience. However, this case goes to show how difficult it can be for some people to face up to problems by themselves without the support and assistance of those who love them; in this case, that would be your parents.
10. I am in no doubt at all that you are deeply ashamed of what you did. I am in no doubt at all that your state of mind, at the time, was fragile indeed and that is why you took the desperate steps that you did effectively to distance yourself from the embarrassment of having fallen pregnant to someone who was not standing by you.
11. These are serious criminal charges. Of course, the circumstances surrounding cases such as this vary dramatically. In particular, this is not a case (such as the one referred to me by Mrs Harrison) where a handicapped child was neglected over a significant period of time by the child's parents. There are other cases that come to mind where parents have preferred to go out partying or fuelling a drug or gambling addiction and leave their children at home alone. Your case is nothing like those cases.



12. It is a case that, in my view, requires me to accept that it was offending committed deliberately but by a person who was in a very fragile and confused emotional state.
13. You spent over a month in custody before bail was granted and that would have brought home to you exactly how serious this offending is. However, I am satisfied that there is no need for a sentence that attempts to deter you personally from acting in this way again.
14. Anyone who knows the full facts about this case will appreciate that it was offending committed by a woman who felt confused and desperate and felt that she had nowhere to turn for help. Of course, you now have the full and continuing support of your family. You are attending counselling with your parents as you work to try and bring yourself back to a state where you can manage your life from this point on. That is all detailed well by the probation officer.
15. You have work at a local farm and, with your ability to educate yourself, it is clear that you will be able to find good employment and make something off yourself.
16. I consider what punitive aspect to the case that may be required can be addressed appropriately by recognising the time that you have already spent in custody. What I can now focus on is a rehabilitative sentence. For that reason I accept the recommendation of the probation officer in the pre-sentence report that you be sentenced to a term of 12 months supervision.
17. The public prosecutor sought a term of 8 months imprisonment suspended for 2 years but, with respect to that submission, I see no reason to take that course as I do consider that there is a need to have a punitive sentence of that nature held over your head as very much a warning not to commit any further serious offences. I am sure this Court will never see you again.



18. So, taking all those matters into account, I consider that the individual circumstances presented by this case can be accounted for appropriately by a sentence of 12 months supervision with these special conditions:-
- a) That you undertake counselling with a family health association as directed by a probation officer;
  - b) That you continue spiritual counselling as directed by the probation officer;
  - c) That you undertake the niufala rod programme as directed by a probation officer; and
  - d) That you participate in any reconciliation process if directed to do so by your probation officer.
13. You have 14 days to appeal this sentence if you do not agree with it.

BY THE COURT

