

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

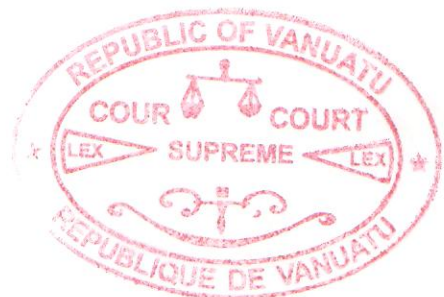
TOBEL VENVEN

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

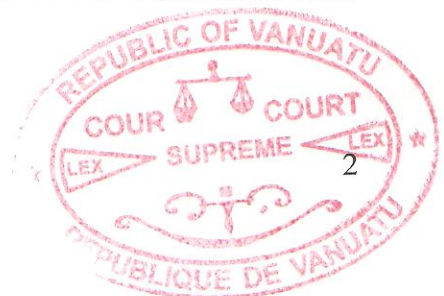
Mr P. Werrick for Public Prosecutor
Ms J. Tari for Defendant

SENTENCE

1. Tobel Venven you pleaded guilty to one charge of Act of Indecency with Young Persons contrary to Section 98A of the Penal Code Act on 26th May 2011.
2. Your victims were 2 very young and little girls of 5 and 8 years old. It happened on 30th April 2011 at USA Plantation. You asked the 8 year old girl to call her cousin, the 5 year old girl to follow you to the river to eat “navara”. However, in the undergrowth near the river, on your instructions the two girls removed their underclothes and then you committed acts of indecency on both of them in the presence of the other by rubbing your penis over their vaginal areas. You touched their private parts with your right index finger and ejaculated over the face of the 5 year old girl. You admitted to all these facts during interview with the police. From the facts also it appears you had previously exposed yourself to the 8 year old girl and had indecently dealt with her prior to these offendings.



3. This is not the first time you have come before this Court. On 20th November 2008, you were sentenced to 3 years imprisonment for committing indecent assault and attempted incest on a 9 year old girl. You applied for parole and was released on 20th May 2010 with conditions that, among others, you should not re-offend. It is unfortunate that you have re-offended and this time over upon 2 victims of much younger ages than your previous offending. You abused your parole privileges. You appear to have habitual appetite for young and little girls. You appear to be related to your victims. You are a 39 year old man. There is a great disparity between your age and your victims by a very large margin. As such, you stood in a position of trust and owed them a duty of care and protection. Instead your took advantage of their tender age to sexually abuse them and subjected them to indignified sexual acts. These are the aggravating features that add to the seriousness of your offending.
4. This Court does not see any other option open for you. The only appropriate penalty for you is a custodial one. The Court adopts the sentencing principles in PP v. Gideon [2002] VUCA 7 and PP v. Kalsale [2007] VUCA 11. Based on these cases, the starting point for you is 6 years imprisonment.
5. The only relevant mitigating factors that will assist you are that –
(a) You cooperated well with the police; and
(b) You pleaded guilty at the earliest opportunity.
For these, there will be a reduction of 8 months from your 6 years imprisonment, leaving the balance of 5 years and 4 months imprisonment.
6. You are therefore hereby convicted and sentenced to imprisonment for a term of 5 years and 4 months.



7. These 5 years and 4 months shall be served consecutively to your unserved portion of your current sentence which is to end on 19th November 2011.
8. For avoidance of doubt, your 5 years and 4 months imprisonment commences on 20th November 2011, after your first imprisonment comes to an end.
9. You have a right to appeal within 14 days.

DATED at Luganville this 17th day of June 2011.

BY THE COURT


OLIVER A. SAKSAK

Judge

