

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

JANDY BULE

Mr Justice Oliver A. Saksak

**Mr P. Wirrick for Public Prosecutor
Miss J. Tari for the Defendant**

Date of Hearing and Sentence: 8th November 2012

SENTENCE

1. Jandy Bule, you pleaded guilty to one count of unlawful sexual intercourse contrary to section 97 (2) of the Penal Code Act Cap 135 (the Act). The maximum penalty for this offence is 5 years imprisonment.
2. In considering sentence, the Court is guided by the cases of Public Prosecutor v. Macreveth [2008] VUSC 4; Public Prosecutor v. Francois Roy [2011] VCSC 295; Public Prosecutor v. Ben Kalokis, Criminal Case No. 17 of 2004 and Public Prosecutor v. Frederick Kaltarika, Criminal Case No. 6 of 2005.
3. Each of those cases have their own differing facts and circumstances but the principles of sentencing are applicable to your case. You have conceded the facts and it is not necessary to restate them.
4. It is clear from the sentencing in the four cases referred to above that the appropriate sentence for your offending will be a custodial sentence with suspension. I accept submissions by the Prosecutor and Defence Counsel that a suspended sentence with supervision as recommended by the Probation Officer in your Pre-Sentence Report are appropriate to mark the gravity of your offending, to deter both yourself and others, to condemn your actions and offending and to punish you appropriately and adequately.



5. I consider that a starting point of 2 years would have been appropriate. In light of the following mitigating factors such as –
- (a) Being a young offender of 15 years old, 14 years at the time of commission of the offence;
 - (b) Being a first-time offender;
 - (c) Good cooperation with the Police;
 - (d) Early guilty plea;
 - (e) Custom reconciliation ceremony performed indicating remorse; and
 - (f) No injury or physical harm was sustained; there will be a reduction of 12 months or 1 year. The balance is 1 year imprisonment.
6. The balance of 1 year imprisonment is suspended for a period of 2 years from the date of this sentence.
7. Within a period of 2 years you are ordered to be supervised by the Probation Officer. You will comply with the following conditions –
- (a) You must undertake Niufala Rod Program; and
 - (b) You must attend training as directed by a Probation Officer.
8. This sentence is imposed under Section 58 G of the Act.
9. You have a right to appeal against this sentence within 14 days if you so choose.

DATED at Luganville this 8th day of November 2012.

BY THE COURT


OLIVER A. SAKSAK

Judge

