

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

Criminal Case No.26 of 2014

PUBLIC PROSECUTOR – VS – WILLIE DAVID

Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *Mrs. Losana Matariki for Public Prosecutor and State*
Mr. Henzler Vira for Defendant

Date: *23rd May 2014*

SENTENCE


1. Willie David, you are for sentence today for having pleaded guilty one count of sexual intercourse without consent, contrary to section 91 of the Penal code Act Cap. 135.
2. The maximum penalty for this offence is life imprisonment. This length of punishment indicates that this offence is very serious indeed.
3. Your victim was only 9 years old when the offence occurred. On a Sunday in 2010 the complainant was on her way to church when you jumped on her, held her tightly and pulled her into a bush. You removed her panty, pushed her to the ground, put saliva and rubbed it on her vagina. You then pushed your penis into the victim's vagina for a while. Then you got up and left the complainant. You have accepted those facts. The Court will sentence you on the basis of your admission.
4. Your offending is so serious it warrants a custodial sentence. The case of **Public Prosecutor v. Ali August** [2000] VUSC 73 is the classic authority for this view. The Court agrees with the Prosecutions that the starting point for you should not be less than 6 years imprisonment.
5. I consider that there should be an uplift of two years for the following aggravating features:-
 - (a) That the victim was very young;
 - (b) That there was a great difference in age, the victim being 9, you being about 28;
 - (c) That there was a degree of physical force;
 - (d) That there was a risk of physical injuries to the victim's private part.

Your sentence is therefore increased to 8 years imprisonment.

6. I now consider making reductions due to the following mitigating factors:-
- (a) For guilty plea at earliest opportunity – 1/3 reduction is allowed. That is a period of 2 years and 8 months. The balance of the sentence is 5 years and 4 months.
 - (b) For customary reconciliation showing remorse and for clean criminal record – 1 year reduction is allowed. The balance of the sentence is therefore 4 years and 4 months. The 2 months you spent in remand from 27th February 2014 to 4th April 2014 are also deducted. The balance of the sentence is 4 years and 2 months.
7. You are therefore convicted and sentenced to an end sentence of 4 years and 2 months imprisonment.
8. This sentence serves the following purposes:-
- (a) To mark the seriousness of your offending;
 - (b) To mark public disapproval of your actions;
 - (c) To deter you and other like-minded persons;
 - (d) To protect children, young girls and women;
 - (e) To punish you adequately and appropriately.
9. You are ordered to commence your imprisonment term immediately with effect from today.
10. That is the sentence of the Court. You have a right of appeal against this sentence within 14 days if you do not agree with it.

DATED at Port Vila this 23rd day of May 2014

BY THE COURT


OLIVER.A.SAKSAK
Judge

