

PUBLIC PROSECUTOR

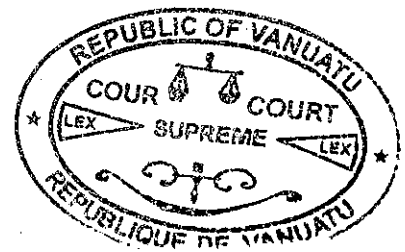
V

JEFFERY TAKARO

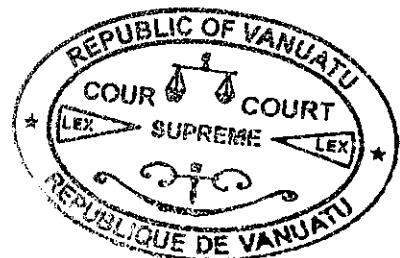
Sentence: Thursday 28 April 2016 at 4 pm
Before: Justice JP Geoghegan
Appearances: Mr Karae for the Public Prosecutor
Ms Bakeo (PSO) for the Defendant

SENTENCE

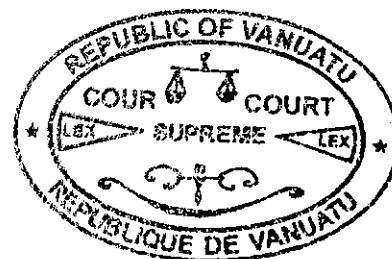
1. Mr Takaro you appear for sentence today on three charges of unlawful sexual intercourse with a child under the age of 13. Those charges carry a maximum term of imprisonment of 14 years. The facts here are not in dispute and I refer to the prosecutor's sentencing submissions to briefly refer to those facts.
2. The victim of your offending is a 10 year old girl. She resides with her parents at the Tebakor area and you also live with your children in that area. The victim and her family are tenants as I understand it, in the same building as you resided.
3. In November you called to the victim and called her into your home to take your phone and charge it. She went to your home and when she was inside your home, you removed your trousers and made the victim get on top of you at which point you began touching her vagina and you inserted your penis into her vagina. The second offence occurred on 10th of January 2016 when you again called to the victim to call her into your home. You have closed your windows, you have taken the victim into your home, you have removed her trousers and your own and you have again made the victim lie on top of you and you have made her rub your penis on her vagina. You have then inserted your penis into her vagina. After that incident you gave her Vt 500.



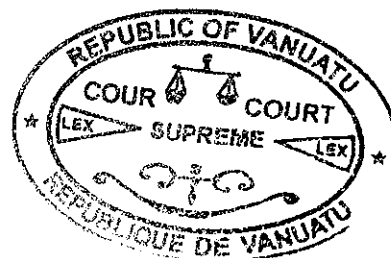
4. Sometime after that incident another adult was called over to your home as there was some suspicion about your activities and your behaviour. That person saw you with the victim in circumstances which she considered very suspicious. She has taken steps to intervene and she has spoken to you with your denying any improper behaviour. Notwithstanding that, on the 13th of January 2016, you have again called the victim into your home and once she has come into your home you have removed her trousers you have rubbed your penis against her vagina and you have again inserted your penis into her vagina.
5. By any account Mr Takaro, this is serious offending against a very young and vulnerable child. You appear before the Court for sentencing today with no previous criminal history.
6. I have read your pre-sentence report which tells me that you are a 65 year old man with 4 daughters and 3 sons and that you were currently living with one of your sons prior to your being placed in custody.
7. You have told the report writer that you are a leader in your community and that you are a secretary of the Vatuanga Committee which is a community residing in Port Vila. Your status and participation in the community has been corroborated by the report writer. It appears that you are also an active member of the church community. I note that the pre-sentence report refers wrongly to your pleading guilty to one count of indecency with a young person but of course you appear for sentence in respect of the charges that I have referred to and in respect of which you have pleaded guilty.
8. You have accepted responsibility for your offending and you have put it down to your sexual drive. While that is a frank admission on your part it also suggests to me that you may remain a risk to potential victims were you to remain at large in the community. There has been an attempt by you to engage in some kind of reconciliation with the victim's family however clearly they have viewed that as inadequate.



9. Imprisonment is recommended and of course given the nature of your offending that is not surprising. I have received very helpful submissions from your counsel and from counsel for the Public Prosecutor. They refer to many cases involving offending of this kind and while those cases are very helpful ultimately you must be dealt with on the basis of your offending and the facts of that particular offending and the personal circumstances which relate to you. ~~The prosecution suggests a starting point of 6 to 7 years for the offending while your counsel suggests 6 years as being appropriate. An end sentence of some 3 to 4 years is submitted by the prosecution as being appropriate while your counsel submits that 3 years is appropriate.~~
10. Both counsel have referred to the Court of Appeal decision in the PP v. Andy which sets out the relevant factors in assessing culpability in order to fix a starting point in offences of this kind and the relevant factors here are the following:
- a) The age of the victim. As I have said at 10 years of age she is very young with all of the associated vulnerability that comes with that age.
 - b) Your age. At 65, and in your role as an apparent leader of the community, that fact renders the offending more serious.
 - c) The degree of violation in this case was serious. On 3 separate occasions you have inserted your penis into the victim's vagina.
 - d) There appears to be a degree of premeditation in your offending as on each occasion you have called the victim into your home where the offending has been taking place. Some may suggest the use of the word predatory, is a far more accurate description of your conduct and your behaviour. Your conduct with the victim has not been random and in addition your offending on January 13th took place after another adult had previously remonstrated with you in respect of what she saw as your suspicious conduct with the victim.
 - e) While the offending did not occur over a significant period it was repeated offending.



- f) You have in my assessment, endeavoured to buy the victim's silence by a payment to her of Vt 500.
11. Regrettably there is no victim impact report. The effect of your offending on the victim is not known and indeed the true impact of it may not be known for many years to come. The reality however is that it is more than likely that ~~your offending will have had a significant impact upon the victim and will~~ continue to have a significant detrimental impact upon her life.
12. I have considered the authorities referred to me by counsel, the cases of the PP v. Larrio, PP v. Roy and Edgel v. PP all involve offending by older men against victims of a similar age to your victim. Larrio and Roy involve starting points of 6 years while Edgel involved a starting point of 10 years. While I agree that Edgel is a more serious case than yours, neither Larrio nor ~~Roy involves violation of the victim by use of the penis and accordingly I~~ regard your case as more serious.
13. Taking into account the factors that I have referred to I regard an appropriate starting point as being 7 years imprisonment. There are no aggravating features personal to you which warrant an uplift of that sentence beyond that point. There are however mitigating circumstances and in that regard I refer to your lack of previous convictions, your offer of a reconciliation ceremony, your reported clear remorse for your offending and I would add the impact of a custodial sentence upon an offender of your age. I consider that looking at those mitigating circumstances an appropriate allowance for those factors is one of 12 months. That reduces the sentence to 6 years. I further reduce that by 2 years to take account of your early guilty plea which I acknowledge was entered at the earliest time and has saved the distress to the victim and her family which would be involved in giving evidence in a trial.
14. Mr Takaro, this offending is appalling. In any civilized community children are entitled to feel that they will be protected by adults and not preyed upon by them as you have done with this victim.



15. You are sentenced to 4 years imprisonment in respect of each charge. Those sentences will run concurrently. Your sentence is deemed to have commenced on the 15th of January 2016 when you were taken into custody. Pursuant to section 94 of the Criminal Procedure Code, you have 14 days from today to lodge a notice of appeal against this decision.

Dated at Port Vila this Thursday 28th day of April 2016

BY THE COURT


JP GEOGHEGAN
JUDGE

