

BETWEEN: Public Prosecutor

AND: Christopher Siro
Defendant

Date of SENTENCE: ***23rd day of July, 2020 at 9:00 AM***

Before: ***Justice G.A Andrée Wiltens***

Appearances: ***Counsel - Lenry Young for Public Prosecutor***
Counsel – Rollanson Willie for the Defendant

SENTENCE

A. Introduction

1. Mr Siro has pleaded guilty to sexual intercourse without consent and threatening to kill. The maximum sentences for this offending is life imprisonment and 15 years imprisonment respectively.

B. Facts

2. The complainant LT was 8 years old at the relevant time – Mr Siro was then 14 years old.
3. In 2019, on Pentecost, LT was picking nagavika fruit with a friend. The friend was called to go home, leaving LT alone. Mr Siro chanced upon her, pulled her behind a tree and took off his pants, exposing his penis to LT.
4. Mr Siro removed LT's shirt and underpants made her sit on the ground and observe his penis and then got on top of LT and pushed his penis into her



vagina. LT felt pain and cried. Mr Siro told her not to call out and continued to have sex with her. When he had finished he on his clothes and just abandoned her.

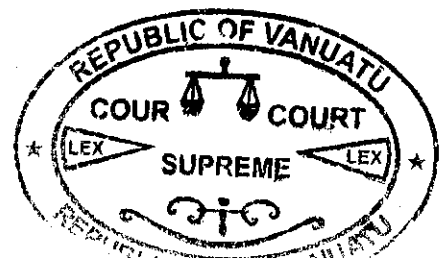
5. LT was crying. She saw her blood. She went home without her nagavika nuts and was walking with difficulty. She went to bed without having any dinner. She later told her aunt what had occurred.
6. Subsequently Mr Siro threatened to kill LT if she told anyone further about what he had done.
7. When interviewed by the police, Mr Siro agreed that LT is related to him and that she calls him uncle. He admitted that he had made LT see and touch his penis before he had sex with her, and that he threatened to kill her because she had reported the incident.

C. Sentence Start Point

8. The sentence start point is arrived at by considering the maximum sentence available and factoring in the aggravating and mitigating aspects of the offending.
9. There are no mitigating aspects to this offending. However, there are aggravating factors, namely :-
 - The extreme youth and immaturity of LT;
 - The breach of trust – she calls him uncle;
 - The additional indignities LT suffered;
 - The threat to not tell anyone; and
 - The effects on LT – physically and mentally.
10. The sentence start point is accordingly set at 8 years imprisonment, on a totality basis, taking both charges into account.

D. Personal Factors

11. Mr Siro pleaded guilty at the first available opportunity. That has spared LT the ordeal of having to give evidence about this, and saved Court time and costs. The plea indicates an acceptance of his wrong-doing and his remorse. Accordingly the mitigation for the early guilty plea is set at 33%.
12. Mr Siro is 14 years of age. He is unemployed and has had little education. He does some gardening but relies on his parents. He has no previous convictions.



13. For Mr Siro's personal factors there is a further reduction of the sentence by 30 months. That is an exceptional discount, given his age primarily and his lack of previous offending. That discount takes into account that Vanuatu is a signatory to International Conventions protecting the very young in our community.

E. End Sentence

14. The end sentence is accordingly 2 years and 9 months imprisonment on both charges concurrently. The sentence is back-dated to 25 June 2020 to take into account time already served.
15. I acknowledge the provisions of s. 37 of the Penal Code and the desirability of keeping offenders in the community so far as practical, provided that the safety of the community is not imperiled.
16. I acknowledge also section 54 of the Penal Code which mandates that persons under the age of 16 years be imprisoned only if there I no other appropriate means of punishment.
17. In all the circumstances Mr Siro can be kept out of prison. The sentence of 2 years 9 months is accordingly entirely suspended for 3 years. He must keep out of trouble and be offence-free for 3 years from now or face the fact that he will serve this sentence together with any other sentence imposed.
18. Additionally, Mr Siro is to undergo 2 years of supervision to assist him to not re-offend. In my view he is too young to be compelled to also complete community service.
19. Mr Siro has 14 days to appeal this sentence if he is not with it.
20. All relevant information leading to that identification of LT is permanently suppressed.

DATED at Luganville this 23rd day of July, 2020

BY THE COURT

Andrée Wilten
Justice GA Andrée Wilten

