

**BETWEEN: Public Prosecutor**

**AND: John Richard William**  
Defendant

*Dates of Hearing:* 7 August 2020  
*By:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr K. Massing for the Public Prosecutor  
Mr E. Molbaleh for the Defendant

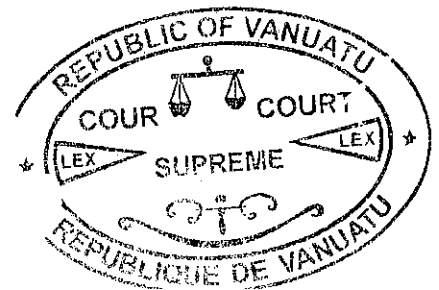
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**SENTENCE**

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A. Introduction

1. The defendant, Mr William, was convicted after trial in relation to his first Information of:
  - Charge 7: sexual intercourse with LD without her consent on two occasions in November 2007 – the maximum penalty for this offence is a term of life imprisonment;
  - new Charge 9: sexual intercourse with LD without her consent on three occasions in November 2008 – the maximum penalty for this offence is a term of life imprisonment.
  - Charge 8: sexual intercourse with MS, who at the time was under the age of 18 years and living as a member of Mr William's family and under his care and protection on several occasions over the period 2016 to 2017 – the maximum sentence for this offence is a term of 10 years imprisonment.
  
2. On the day he was due to be sentenced for the above offending, Mr William indicated that he wished to enter pleas to the second Information filed against him. Accordingly, he was arraigned on a further 5 charges. Mr William then pleaded guilty to:
  - Charge 1: sexual intercourse with MG on 1 December 2014 without her consent – the maximum sentence available for this offence is life imprisonment;



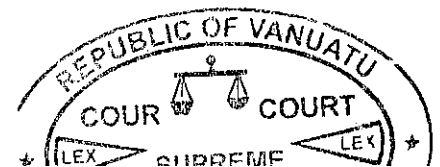
- Charge 3: sexual intercourse with MG in December 2014, who at the time was under the age of 18 years and living as a member of Mr William's family and under his care and protection – the maximum sentence for this offence is a term of 10 years imprisonment; and
- Charge 4: sexual intercourse with MG in December 2014, who at the time was under the age of 18 years and living as a member of Mr William's family and under his care and protection– the maximum sentence for this offence is a term of 10 years imprisonment .

B. Facts

3. My findings as to the facts of the First Information offending are fully set out in my verdict. What follows is a summary.

Charges 7 and the new Charge 9

4. LD studied at the Nabangasale junior secondary school from 2007, as a boarder. During examination week in November 2007 in order to study she moved to stay with Mr William, the school Principal, at his house.
5. One night Mr William went up to LD and instructed her to go to his room. She did not want to, but he held her right hand and pulled her along. He forced her onto his bed, took off her skirt and underpants and entered her vagina with his penis. LD tried to cry out, but Mr William put a hand over her mouth. Later Mr William told her to go back to her room and sleep. He told her that she was not to tell anyone about what had occurred. LD did not agree with what Mr William had done to her.
6. The second occasion was also at night. LD was studying, when Mr William told her to accompany him to his room. LD did not want to go, but Mr William dragged her by the right hand. He forced LD onto the bed, took off her skirt and panties and had full penetrative sex with her. LD did not want that. Mr William blocked her mouth to stop her from crying out; and he later gave her VT 500 telling her to not tell anyone. LD felt it was wrong as he was not treating her properly. LD called him "uncle", and what he had done was not appropriate.
7. In 2008, LD received a telephone call from Mr William, asking her to work at the Nabangasale School as treasurer, starting in March 2008. LD accepted the job and worked there until November 2008. At that time, Mr William asked LD to look after his house at the school while he went to Port Vila. LD agreed, and went and stayed at Mr William's house. While at his house, Mr William had sexual intercourse with LD on 3 further occasions.
8. The first occasion was when LD was awoken by a torch being shone in her face while she was asleep. LD was told to go to Mr William's room and dragged there when she resisted. In his room, Mr William undressed LD and had sexual intercourse with her. LD tried to call out but he blocked her mouth with his hand. Mr William told her to not tell anyone. LD felt it was wrong what he did to her.
9. The second occasion was the same – he woke LD by shining a torch in her face. When LD refused to move, Mr William grabbed her and pulled her out of bed by her foot. He dragged her to his room by her arm. There he took off her clothes and had sexual intercourse with LD. He blocked her mouth to prevent LD from crying out, and told her to not tell anyone. LD did not consent to having sex with Mr William.
10. The third occasion happened during daytime. Mr William closed all the windows and doors, and took LD to his room and had sexual intercourse with her. LD did not consent to that.
11. LD later discovered that she was pregnant. LD told Mr William she was pregnant with his child - he replied that it was untrue, and that LD was pregnant to a Tannese male who had come to work on the Telecom towers. Mr



William accused LD of lying. Subsequently, Mr William told LD he would send the devils to her to rid her of the child.

### Charge 8

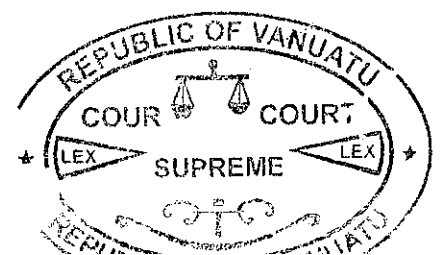
12. MS attended the Nabangasale Junior Secondary School from 2014 to the end of 2017. Initially MS was a boarder, however she stayed the last term of 2016, and all of 2017, at Mr William's house under his care.
13. In 2018, MS was not a well child – she passed away on 6 October 2018. At the time of her death, MS was still not 18 years old.
14. On 3 October 2018, MS made a dying declaration to her father and her guardian. She admitted to having had two abortions. She named the father of both unborn children as: "Grandfather Richard, the Principal of the Nabangasale School." When asked how often the Principal had had sex with her, MS said: "Frequently, very often. From Year 8 through to Year 10."

### Further Offending

15. The Summary of Facts produced by the prosecution in relation to the offending set out in the second Information Mr William had pleaded guilty to were agreed to by Mr William. They reveal that MG went to the Nabangasale Junior Secondary School from 2013 onwards. Initially MG stayed with other pupils in the school dormitory, but subsequently, after the first term of 2014 she moved into Mr William's home as she needed to study more.
16. One afternoon MG received a text from Mr William asking what she was doing. She responded she was getting ready to take a shower. He responded with a lewd comment and later followed that with a request that she meet him in the school science laboratory. There he told her that he wanted to have sex with her – she replied she did not want to do that. She was frightened and concerned about their families, as they are related. He kissed her and persuaded her to permit him to have sexual intercourse with her, insisting that no one would find out. He made her remove her clothes, lie down and then he had sexual intercourse with her; initially on the ground but later on a science laboratory table. MG ended up bleeding and having difficulty in walking.
17. MG recalls that after the first incident, they had sexual intercourse on further occasions. She recalled that occurring once in the girls' ablution block; but mostly the sexual intercourse occurred in Mr William's bedroom.
18. In 2015, MG was attended school at Epi but was persuaded to return to Mr William's home on Tongoa for the school holidays in July. At that time Mr William had sexual intercourse with her at Mr Waiane's house. She was then 17 years of age and in his care for the holidays.
19. The Summary of Facts goes on to record that in August 2016, MG again returned to Mr William's house on Tongoa, and that sexual intercourse occurred between them. Indeed MG became pregnant as a result. Mr William admitted this part of the summary of facts was true and correct, but as there is no charge relating to this, the Court cannot take it into account when sentencing.

### C. Sentence Start Point

20. The maximum sentence and the criminal culpability dictate the sentence start point in any given case. In terms of precedent authority perhaps the best case is *PP v Scott* [2002] VUCA 29, where the various matters that might aggravate the criminal culpability in rape cases is discussed.



21. Relevant to this case, I note that where there are no aggravating matters, the suggested start point is 5 years imprisonment. Where there is a breach of trust involved, the appropriate start point suggested 8 years imprisonment. Further, where there are more than one complainant, and where the offending is repeat offending, the start point suggested is 15 years imprisonment.

22. The aggravating factors that impact on Mr William's criminal culpability are as follows:

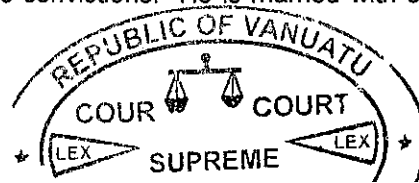
- The use of excessive force, over and above that necessary to perpetrate the offence of sexual intercourse without consent;
- The breaches of trust - Mr William was not only biologically related to all three complainants but he was also in a position of authority over them as the Principal at the school they attended;
- The very young age of LD;
- The loss of virginity;
- The lack of protection used, and the fact that pregnancies resulted [the pregnancy of MG is not included here];
- The offending occurred mainly at night, in the complainant's temporary home – where they could expect to be safe;
- The repeat offending, over a lengthy period of time;
- Requiring 2 of the complainants to not tell anyone about what Mr William had done to them;
- The age differences between Mr William and the complainants, resulting in a power imbalance and the reduced prospects of resistance;
- Preventing the complainant LD from crying out and raising the alarm; and
- The planning and arranging of matters to enable the offending to occur.

23. The start point I adopt for Mr William's offending, on a totality basis, is 16 years imprisonment.

#### D. Mitigation

24. Mr William pleaded guilty to 3 of the offences. His pleas were not at the earliest of opportunity, but have saved MG the ordeal of having to give evidence against him. It has also saved Court time/cost and indicates an acknowledgment of his wrong-doing. I do not accept that the pleas demonstrate remorse for the offending, given that a trial was required in relation to very similar offending. The mitigation for Mr William's guilty pleas is set at 20% for the offences to which he pleaded guilty. There is no discount available in relation to the trial matters.

25. Mr William is almost 50 years old, and married. He is currently unemployed, but has carried out the functions of a headmaster at his school for a considerable period. He has no previous convictions. He is married with 3



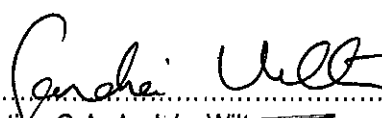
children. His wife reports to being able to cope financially as she is employed. He has provided several references which speak highly of his community contributions.

26. The PSR writer reports the lack of any remorse, as well as the lack of any customary reconciliation ceremony. I contrast that with Mr Molbaleh's submissions, which I reject. To suggest remorse on the part of Mr William is to ignore his criminal offending in respect of a number of young girls over a lengthy period of time. There is clearly no empathy with the complainants.
27. I see little available mitigation in Mr William's personal circumstances, save for his lack of previous convictions and his contributions to the community. For that I am prepared to further reduce the sentence start point by 8 months imprisonment.
28. Mr William was remanded in custody from 26 January 2019 until granted bail on 27 May 2019. Accordingly his sentence should be back-dated by 4 months to preserve his parole rights.

#### E. End Sentence

29. One important principle of sentencing is to incarcerate for the least period possible, having regard to all the circumstances. Hence any sentence should not be crushing; and the possibility of rehabilitation must always be kept in mind. However, the more important sentencing principles in this case are holding Mr William accountable for his conduct, taking into account the effects of his offending on others, protecting members of the community and deterring Mr William and others from acting in this fashion in future.
30. Considering all those matters, the end sentence I impose on Mr William is 13 years 9 months imprisonment in respect of charges 7, and the new 9 in the first Information, and Charge 1 of the second Information. In respect of Charge 8 in the first Information, and charges 3 and 4 in the second Information, I impose end sentences of 8 years imprisonment on each charge.
31. I arrived at 13 years 9 months by taking the mid-point of 16 years imprisonment (for the first Information offending) and 16 years less 20% (for the second Information offending) to arrive at 14 years 5 months imprisonment. I then deducted the 8 months available for Mr William's personal factors to arrive at my end point.
32. All the sentences are to be served concurrently, and to run from 4 April 2020.
33. It is wholly inappropriate to suspend any part of the sentences imposed, due to the gravity and type of offending involved.
34. Mr William has the right to appeal this sentence within 14 days if he disagrees with any of it.
35. All particulars leading to the identification of LD, MS and MG are permanently suppressed.

Dated at Port Vila this 7th day of August 2020  
BY THE COURT

  
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Justice G.A. Andrée Wiltens

