

PUBLIC PROSECUTOR

v

GALIBERT MWERA

Date: 25 May 2021  
Before: Justice V.M. Trief  
Counsel: Public Prosecutor – Mr D. Boe  
Defendant – Mr R. Willie

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SENTENCE

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A. Introduction

1. Mr Mwera pleaded guilty to one charge of act of indecency with a young person. I convict Mr Mwera on his plea and the admitted facts.

B. Facts

2. The complainant SV is 13 years old. Mr Mwera was her teacher.
3. On 27 October 2020, SV and some other students were outside on the verandah of their classroom. Mr Mwera called SV into the classroom for him to show her something. He undid his trousers and exposed his genitals to SV. She shouted out and immediately reported the incident to the other students. SV was so frightened by what had happened that she did not go to school the next day.
4. Mr Mwera made full admissions to the Police.

C. Sentence Start Point and Personal Factors

5. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
6. The maximum sentence provided in s. 98A of the *Penal Code* [CAP. 135] for an act of indecency upon, or in the presence of another person under the age of 15 is 10 years imprisonment.
7. There are no mitigating factors related to the offending. The offending is aggravated by:

- The breach of trust involved;
  - The offending occurred on school premises where SV was entitled to feel and to be safe and secure;
  - The 31-year age differential;
  - The effect upon SV including the strong fear caused her; and
  - The offending was planned.
8. The factors set out above require a sentence start point of 3 years imprisonment.
9. I deduct 33% from the sentence start point for Mr Mwera's early guilty plea.
10. Mr Mwera is 44 years old, married and has five children, two of whom are still in school. He is also responsible to look after his 81-year old mother. He has no previous convictions. However, that is of little mitigatory assistance in cases of sexual offending. Mr Mwera has performed a custom reconciliation ceremony with the victim and her relative involving a VT12,000 cash. I reduce the sentence by 2 months for Mr Mwera's personal factors.

D. End Sentence

11. Mr Mwera is sentenced to 1 year 10 months imprisonment. The sentence is back-dated to run from 11 May 2021 when Mr Mwera was taken into custody.
12. The sentence is imposed to denounce such criminal conduct against young girls and against the values of society, to hold Mr Mwera accountable for his criminal conduct, to deter Mr Mwera and others from such offending and to protect the community.
13. The end sentence will not be suspended. An immediate custodial sentence must be imposed for this sexual offending against a child, where a teacher has violated the trust placed in him in relation to his student.
14. Mr Mwera has 14 days to appeal the sentence.
15. All details leading to the identification of SV are permanently suppressed.

**DATED at Luganville this 25<sup>th</sup> day of May 2021  
BY THE COURT**

*UM Trief*  
.....  
Viran Molisa Trief  
Judge

