

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

Criminal
Case No. 21/2998 SC/CRML

PUBLIC PROSECUTOR

V

ROGER EDGAR

Date: 15 October 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms M. Taiki
Defendant – Mr J. Garae

SENTENCE

A. Introduction

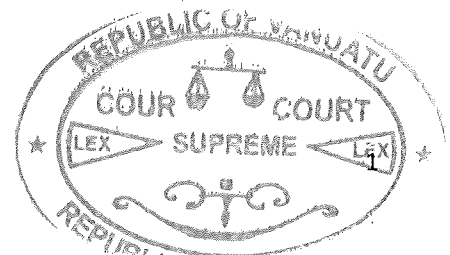
1. Mr Edgar pleaded guilty to one charge of sexual intercourse without consent and was convicted on his own plea and the admitted facts.

B. Facts

2. In 2014, the complainant PW was 11 years old and Mr Edgar 25 years old. They both reside in the same village Atabulu village at North Pentecost and are related to each other.
3. At some time within 2014, during the mourning period and ceremonies (bongi) following the death of a relative Stephen Sau, Mr Edgar came up to PW and the boy she was walking along the road with and told the boy to leave. Mr Edgar then grabbed PW's hand and pulled her into a kitchen belonging to Jevason.
4. Inside the kitchen, Mr Edgar removed PW's clothes, made her lie on a bed inside the kitchen and parted her legs. He knew that she was not consenting but he went on to have sexual intercourse with her involving penile penetration of her vagina. The intercourse was painful for PW. After the sexual intercourse, Mr Edgar told PW not to tell her parents.
5. From 2014-2016 Mr Edgar continued to pursue PW for sexual intercourse and again in 2021.

C. Sentence Start Point and Mitigation

6. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
7. The maximum sentence available is life imprisonment.



8. There are no mitigating aspects of the offending.
9. The offending is aggravated by the following:
- The 14-year age differential between Mr Edgar and the complainant;
 - Breach of trust;
 - An element of planning and premeditation;
 - Force was used to effect the rape;
 - Exposing the complainant to the risk of sexually transmitted infection and pregnancy;
 - Mr Edgar told PW not to tell her parents what had happened; and
 - The effect upon the complainant of being frightened of Mr Edgar, ashamed and afraid of how her community sees her, and the repeated offending against her.
10. The factors set out above require a sentence start point of 8 years imprisonment.
11. Mr Edgar cooperated with the Police and pleaded guilty at the first opportunity. He has saved PW the trauma of giving evidence at trial. I deduct 33% (32 months) from the sentence start point for the prompt guilty plea.
12. Mr Edgar is 33 years old, married and has two children. He has no previous convictions. He is a gardener and builder. He is stated to have a good relationship with his family and community. Mr Edgar's family performed a reconciliation ceremony on his behalf with PW's family involving a pig, VT20,000, and 10 heads of kava valued at VT5,000 each. For Mr Edgar's personal factors, I deduct 6 months from the sentence start point and a further 12 months for the 7-year delay since the offending.

D. End Sentence

13. Mr Edgar is sentenced to 3 years 10 months imprisonment. The sentence is back-dated to commence from 7 August 2021 when Mr Edgar was taken into custody and then remanded.
14. The sentence is imposed to denounce such criminal conduct, to deter Mr Edgar and others from such offending, to hold Mr Edgar accountable for his criminal conduct, and to protect women and girls.
15. The end sentence will not be suspended: *Public Prosecutor v Gideon* [2002] VUCA 7.
16. All details leading to the identification of PW are permanently suppressed.
17. Mr Edgar has 14 days to appeal the sentence.

DATED at Luganville this 15th day of October 2021

BY THE COURT

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Justice Viran Molisa Trief

