

PUBLIC PROSECUTOR

v

TOTO BULE

Date: 24 November 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr D. Boe
Defendant – Mr R. Willie

SENTENCE

A. Introduction

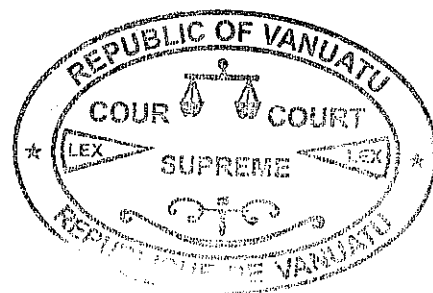
1. Mr Bule pleaded guilty to representative charges of unlawful sexual intercourse and incest. I convict Mr Bule on his pleas and the admitted facts.

B. Facts

2. The complainant DM is Mr Bule's adopted daughter. She was under 13 years old at the time of the offending.
3. The offending occurred from 2012 to 2016 when DM and Mr Bule were alone at home. DM was in Class 1 in 2012 and in Class 5 in 2016. The offending involved both digital and penile penetration with Mr Bule touching DM's vagina, penetrating her vagina with his fingers, and also having penile sexual intercourse with her and touching her breasts.
4. Mr Bule admitted to the Police that he touched DM's breast when she was in Class 5.

C. Sentence Start Point and Personal Factors

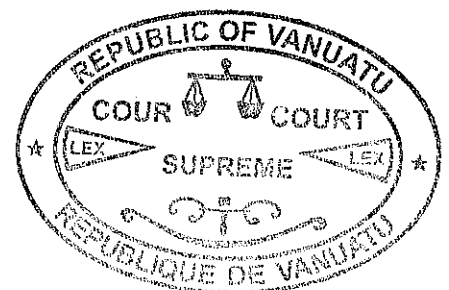
5. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
6. The maximum sentences provided in the *Penal Code* [CAP. 135] are:
 - Unlawful sexual intercourse (subs. 97(1)) – life imprisonment; and



- Incest with a person under the age of 16 years (subsections 95(8) and (9)) – life imprisonment.
7. There are no mitigating aspects to this offending. The offending is aggravated by the following matters:
 - There has been a serious breach of trust;
 - The offending occurred within the complainant's home;
 - The degree of violation – digital penetration followed by penile sexual intercourse; and
 - The complainant was exposed to the risk of sexually transmitted infection and pregnancy; and
 - The effects on the complainant.
 8. The factors set out above require on a totality basis a sentence start point of 9 years imprisonment.
 9. I reduce the sentence start point by 33% for Mr Bule's early guilty pleas which has saved time and saved the need for the complainant to give evidence.
 10. Mr Bule has a previous conviction, entered today in Criminal Case No. 2588 of 2019. I do not consider that an uplift to the sentence start point is warranted for this.
 11. Mr Bule is 42 years old. He is married and has two children studying at Ranwadi Secondary School whom he supports.
 12. In 2017, Mr Bule performed an extensive custom reconciliation ceremony with the complainant and family, and to the school.
 13. For Mr Bule's personal factors, I deduct 8 months from the sentence start point.

D. End Sentence

14. Mr Bule is sentenced to 5 years 4 months imprisonment on both charges concurrently. The sentences are back-dated to run from 23 November 2021 when Mr Bule was taken into custody and are to be served consecutively to Mr Bule's sentence in Criminal Case No. 2588 of 2019.
15. The sentences are imposed to deter Mr Bule and others from such offending, to protect the community, to denounce such criminal conduct against young girls and against the values of society, and to hold Mr Bule accountable for his criminal conduct.
16. The end sentences will not be suspended. Immediate custodial sentences must be imposed for this serious sexual offending: *Public Prosecutor v Gideon* [2002] VUCA 7.
17. Mr Bule has 14 days to appeal the sentence.



18. All details leading to the identification of DM are permanently suppressed.

DATED at Bwatnapni, Central Pentecost this 24th day of November 2021
BY THE COURT

VM Tref

Justice Viran Molisa Tref

