

BETWEEN: Public Prosecutor

AND: Fred Emile
Defendant

Date: 6 April 2021
By: Justice G.A. Andrée Wiltens
Counsel: Ms M. Tasso for the Public Prosecutor
Mr L. Moli for the Defendant

Sentence

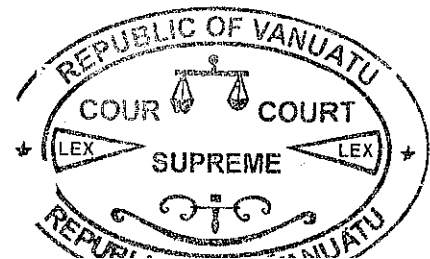
A. Introduction

1. Mr Emile pleaded guilty to a charge of act of indecency with a young person. He accepted as true and correct the summary of facts, and was accordingly convicted as charged.

B. Facts

2. On 20 October 2020, at a family gathering at Freshwota 4, Mr Emile called out to LA, a young 7 year old relative asking that she stop playing with other children and go to him. She did as asked and was grabbed and pulled towards Mr Emile. He then used his left hand to touch her vagina, over her clothing. LA tried to get away, but Mr Emile was too strong until he released her.
3. Mr Emile was then 58 years old. LA is his granddaughter.
4. A family member observed what had occurred and raised the alarm. LA then told her parents what had occurred and Mr Emile was reported to the police. He elected to remain silent when asked about the matter.

C. Sentence Start Point



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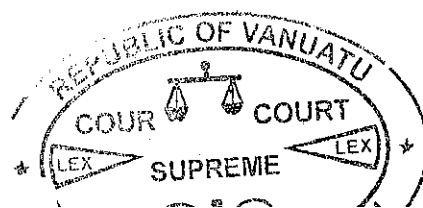
5. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
6. The maximum sentence for act of indecency with a young person is 10 years imprisonment.
7. This offending is aggravated by the fact that there was a breach of trust, the age difference between them, the very young age of LA, the fact that this offending occurred at a family function, and the fact that there was clearly pre-meditation involved. I note the Victim Impact Statement does not reveal significant after-effects for LA.
8. I adopt a start point of 3 years 4 months imprisonment. I do so on the basis that this offending does not involve skin on skin touching, and the fact that the whole incident was brief in duration.

D. Personal Factors

9. Mr Emile pleaded guilty at the first available opportunity. I consider he really had no alternative option given the state of the evidence against him. However, his plea indicates that he has accepted his wrong-doing. It has saved Court time and expense. For that reason I reduce the sentence start point by 25%.
10. Mr Emile is now 58 years old, separated from his wife for the last 10 years. They have 5 children, the ages of whom are unknown to Mr Emile. Clearly he not in close contact with them. He claims to be self-employed, finding work as and where he can.
11. He has no previous convictions. However, he frankly admitted to the PSR writer having committed such an act previously in 2015, but it was not reported to the police. A nephew and his wife confirm this is not the first occasion that Emile has committed such an act. That cannot be an aggravating factor resulting in an increase of the sentence. However, previous similar conduct reduces the mitigation available to Mr Emile. It certainly completely undermines his claimed remorse.
12. Mr Emile has taken not part in a custom reconciliation ceremony. He indicates a willingness to do so.
13. For these personal factors, I further reduce Mr Emile's sentence start point by 2 months.

E. Sentence

14. The end sentence that I impose is a term of 2 years 5 months imprisonment.
15. Mr Emile has been remanded in custody since 23 November 2020. Accordingly, the sentence start date is back-dated to that date to preserve his parole rights.
16. There is no possibility of suspending the sentence. The seriousness of this offending and the nature of the offending militate against such a course. Any suspension would send the wrong

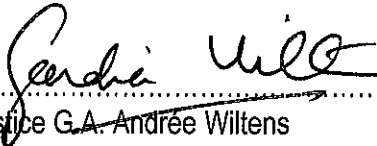


message to the public. The priority sentencing principle must be that of deterrence and holding Mr Emile accountable for his conduct.

17. All details leading to the identification of LA are permanently suppressed.

18. Mr Emile has 14 days to appeal the sentence.

Dated at Port Vila this 6th day of April 2021
BY THE COURT


Justice G.A. Andrée Wiltens

