

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

Criminal
Case No. 21/412 SC/CRML

BETWEEN: Public Prosecutor

AND: Jeffery Love

Date: 23rd April 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr D Boe for the Public Prosecutor
Mr R Willie for the Defendant

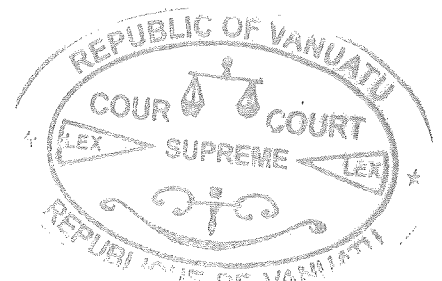
SENTENCE

A. Introduction

1. Mr Love pleaded guilty to an act of indecency.

B. Facts

2. DL was walking home from school with her older cousin Mr Love in early 2020. DL was 9 years old at the time; Mr Love was 16 years old.
3. He asked DL to follow him to some bush on the way to their grandmother's home. He suggested playing a game he called "penises". He took off her skirt and underpants and removed his trousers half way.
4. Mr Love then placed his penis against the outside of DL's vagina, without attempting to penetrate. The incident was of short duration.
5. Mr Love suggested a further game of "Penises" on a second occasion but DL told him it was not a good thing to do and ran away.
6. When interviewed by the police Mr Love made admissions.



C. Sentence Start Point

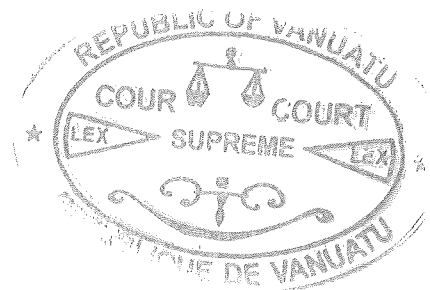
7. The sentence start point is to be assessed by having regard to the maximum penalty for each offence and factoring in the mitigating and aggravating aspects of the offending.
8. The maximum penalty for act of indecency is 10 years imprisonment.
9. There are no mitigating aspects to the offending. However the offending is aggravated by the following:
 - the extreme youth of DL;
 - skin on skin contact;
 - the unprotected contact between penis and vagina exposing DL to sexually transmitted disease; and
 - the breach of trust
10. I set the sentence start point at 4 years imprisonment.

D. Mitigation

11. Mr Love pleaded guilty at the first available opportunity. He is entitled to 25% discount from the sentence start point to reflect that.
12. Mr Love is only 16 years old, still at school. He lives with his grandparents. He has no previous convictions. He has performed a custom reconciliation ceremony with DL.
13. For his personal factors, I further reduce the sentence start point by 18 months – mainly to reflect Mr Love's lack of previous convictions, his prompt plea, and his youth and immaturity. The primary sentencing consideration for him must be rehabilitation.

E. End Sentence

14. The end sentence I arrive at mathematically is 18 months imprisonment. However, it is not appropriate to deal with Mr Love on the basis of a sentence of imprisonment, even on a suspended basis.
15. Accordingly, I sentence Mr Love to 18 months supervision and 80 hours community work.
16. Mr Love has 14 days to appeal the sentence if he disagrees with it.



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

Dated at Luganville, this 23rd day of April 2021
BY THE COURT


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Justice G.A. Andrée Wiltens

