

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

Criminal
Case No. 21/ 974 SC/CRML

BETWEEN: Public Prosecutor

AND: Laurence Tabeva

Date: 22nd April 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr D Boe for the Public Prosecutor
Mr R Willie for the Defendant

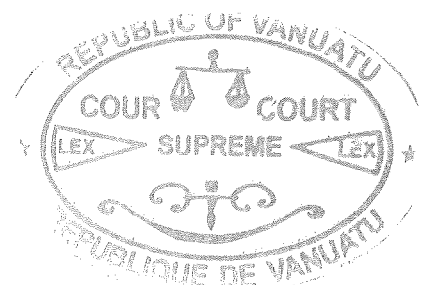
SENTENCE

A. Introduction

1. Mr Tabeva pleaded guilty to aggravated sexual intercourse with a child, and 2 counts of act of indecency with a child.

B. Facts

2. Mr Tabeva is from North Pentecost, aged 45 years. AB is from the same area and aged 15 years. AB refers to Mr Tabeva as her step-father. They lived together with Mr Tabeva's present partner at Lolong village.
3. On 30 July 2019, when only 13 years old, AB was blocked inside her home by Mr Tabeva who then removed her clothes and kissed her mouth and breasts [Count 3].
4. Between 30 July 2019 and December 2020, on various occasions in the family home, Mr Tabeva would indecently touch AB by touching and sucking her breasts and by licking her vagina. [Count 4].
5. Between January 2020 and December 2020, on at least 8 occasions every month, Mr Tabeva would make AB hold his penis and force her to suck his penis [Count 1].



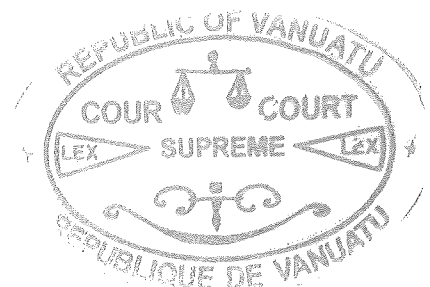
6. AB was afraid to report what was happening to her parents as she feared being assaulted. Eventually she told her older sister and the offending came to light.
7. When interviewed by the police, Mr Tabeva admitted his offending.

C. Sentence Start Point

8. The sentence start point is assessed by having regard to the maximum sentence available for the offending and then factoring in the aggravating and mitigating aspects of the offending.
9. The maximum sentence for aggravated sexual intercourse with a child is life imprisonment. The maximum sentence for act of indecency with a child is 10 years imprisonment.
10. There are no mitigating aspects to this offending. However there are several aggravating factors which include:
 - The age differential – he was 45 and she was 13/14;
 - the lack of protection, which exposed AB to sexually transmitted disease;
 - the repeat nature of the acts and the period over which offending occurred;
 - the numerous types of indignities involved;
 - the breach of trust;
 - the fact the offending occurred in AB's home; and
 - the effects on AB including the fact that she lived in fear of what would occur if she reported the offending.
11. The sentence start point that I adopt, taking all the offending into account on a concurrent basis is 9 years imprisonment.

D. Mitigation


12. Mr Tabeva pleaded guilty at the earliest available opportunity. That is an acknowledgement of his wrong-doing. It has saved court time and expense. It has also spared AB the ordeal of having to give evidence. For his prompt plea I reduce the sentence start point by 33%.
13. Mr Tabeva is 45 years old, married with two young children, both of whom are still in school. He is the sole-bread winner in the family, and supports them by gardening. He has no previous convictions. He co-operated with the police.
14. Mr Tabeva claims to be remorseful and has performed a custom reconciliation ceremony with AB and her family. His apology and gifts were accepted.
15. For Mr Tabeva's personal factors I further reduce the sentence start point by 6 months.



E. End Sentence

16. The end sentence I impose is a sentence of 5 years 6 months imprisonment. I impose that on charge 1. In respect of charges the other 2 charges I impose sentences of 2 years imprisonment. All the sentences are to run concurrently.
17. Mr Tabeva has been remanded in custody since 16 March 2021 and prior 16 – day spell. Accordingly his sentence will be back dated to commence on 23 February 2021.
18. This offending is too serious, and does not warrant the suspension of any of the sentence due to the nature of the offending.
19. Mr Tabeva has 14 days to appeal the sentence if he disagrees with it.
20. All details leading to AB's identity are permanently suppressed.

Dated at Luganville, this 22nd day of April 2021
BY THE COURT


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Justice G.A. Andrée Wiltens

