

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

**Criminal
Case No. 22/1980 SC/CRML**

BETWEEN: Public Prosecutor

**AND: Peter Tor
Defendant**

**Coram: Justice Aru
Counsel: Mr. C. Shem for the Prosecutor
Mr. F. Tasso for the Defendant**

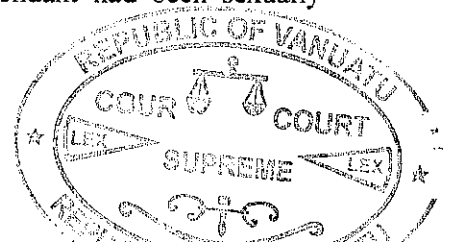
SENTENCE

Introduction

1. Mr Peter Tor pleaded guilty to two counts of unlawful sexual intercourse with a child under 13 years of age. This is his sentence.

The facts

2. The defendant is the biological father of the complainant. The offending occurred around March 2022. The first incident occurred when the complainant was baby-sitting her siblings at their house while their mother went to the garden. The defendant was at home and while the complainant's siblings were playing outside, the defendant was with the victim inside the house when he told her to lie down and he inserted his finger into her vagina and also licked her vagina.
3. On the second occasion the defendant told the victim to follow him to the garden. He pulled her hand and warned her not to scream or make any noise or he will kill her and her mother. Upon reaching the garden, the defendant told the complainant to remove her clothes and to lie down on the grass. She was scared so she followed his instructions. The defendant then proceeded to have sexual intercourse with her by penetrating her vagina with his penis.
4. The matter came to light when the complainant's mother became suspicious and asked the complainant. The complainant admitted that the defendant had been sexually abusing her. The matter was then reported to the Police.



Sentence start point

5. The maximum penalty for unlawful sexual intercourse with a child under 13 years is life imprisonment. The offending is aggravated by the fact that there is a breach of trust. There is an age disparity as the defendant is older than the complainant and the offending was repeated. The offending also occurred in a home where the complainant should feel safe and protected from such behaviour. There is an element of planning involved and threats were used to get the complainant to submit to the defendant's demands and the offending exposed the complainant to the risk of unwanted pregnancy and sexually transmitted diseases. There are no mitigating factors of the offending.
6. On both counts the starting point of sentence is 7 years imprisonment to be concurrent.

Mitigation

7. The defendant pleaded guilty to the charges as a sign of remorse therefore I reduce the end sentence by 30%.
8. No pre-sentence report was filed as directed. Counsel submits the defendant is 32 years of age and is married with 7 children. It was also submitted that he is a first-time offender although that is not verified by his probation officer. The end sentence will be reduced by 6 months.
9. Counsel also submits that a custom reconciliation was performed to the victim and her mother by making fine of VT 19,000. That has not been verified. A reduction of 3 months on the end sentence is allowed for that.

End sentence

10. The end sentence is therefore 4 years imprisonment to be served concurrently without suspension. The sentence is effective from 21 June 2022 when the defendant was remanded into custody.
11. The defendant has 14 days to appeal if he is not satisfied with the decision.

DATED at Port Vila this 22nd day of November, 2022

BY THE COURT

