

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

**Criminal**  
**Case No. 23/2207 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**TOM VUSI**

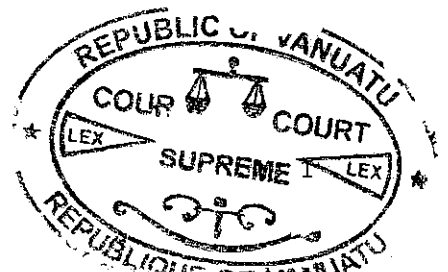
*Date:* 4 September 2023  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Mr G. Simeon  
Defendant – Mr J. Garae

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**SENTENCE**

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1. Mr Vusi pleaded guilty to incest.
2. The complainant LV is Mr Vusi's 14 year old biological daughter.
3. In the early morning of 10 July 2023, at their home at Marino village on Maewo island, Mr Vusi entered the complainant's bedroom, touched her vagina and later had sexual intercourse with her. He told her not to tell anyone including her mother. It was not the first time he had sexual intercourse with the complainant; he had done so since she was younger.
4. Mr Vusi admitted his offending to the Police.
5. The maximum penalty for the offence of incest with a person under the age of 16 years (subsections 95(8) and (9) of the *Penal Code*) is life imprisonment.
6. It is an aggravating factor of the offending that the sex was unprotected exposing the complainant to the risk of sexually transmitted infection and pregnancy, the 24-year age differential, the offending took place in the complainant's home, the complainant was told not to tell anyone including her mother, the physical and mental effect on the complainant (the trauma and physiological effect must have been tremendous) and that there is a gross breach of trust involved in the offending.
7. There are no mitigating aspects to this offending.



8. The factors set out above require a sentence start point of 10 years imprisonment.
9. I reduce the sentence start point by 33% for Mr Vusi's early guilty pleas which has saved time and saved the need for the complainant to give evidence.
10. Mr Vusi is 38 years old. He is married and has five children. He is a gardener. Mr Vusi does not have prior convictions although in offences of sexual nature, a person's previous good character has very little relevance in mitigating a sentence.
11. Mr Vusi performed an extensive custom reconciliation ceremony with the complainant and family involving 2 pigs worth VT40,000 each, custom mats worth VT5,000 and VT19,000 cash. He is stated to be remorseful.
12. For Mr Vusi's personal factors, I deduct 8 months from the sentence start point.
13. The end sentence imposed is 6 years imprisonment. The sentence is backdated to run from 24 July 2023 when Mr Vusi was taken into custody.
14. The sentence is imposed to deter Mr Vusi and others from such offending, to denounce such criminal conduct against young girls and against the values of society, to protect the community, and to hold Mr Vusi accountable for his criminal conduct.
15. The end sentence will not be suspended. An immediate custodial sentence must be imposed for this serious sexual offending: *Public Prosecutor v Gideon* [2002] VUCA 7.
16. Mr Vusi has 14 days to appeal the sentence.
17. All details leading to the identification of LV are permanently suppressed.

DATED at Port Vila this 4<sup>th</sup> day of September 2023  
BY THE COURT

  
Justice Viran Molisa Trief

