

BETWEEN: Public Prosecutor

**AND: Alick Pierre
Defendant**

Coram: Justice Aru
Counsel: Ms. M. Taikie for the Public Prosecutor
Mr. J. Garae for the Defendant

SENTENCE

Introduction

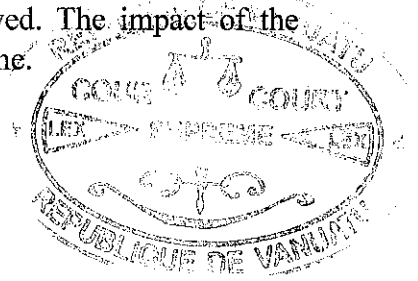
1. The defendant Alick Pierre pleaded guilty to a single charge of acts of indecency with a young person.

Facts

2. Sometime in February of this year 2023 at Nambauk village, the complainant was swimming in a river with a number of her friends. The defendant approached them and called the complainant to follow him cut some banana leaves to block the deep parts of the river. The complainant followed and after collecting the leaves she was walking back to the river when the defendant called her. The defendant then touched the complainant's vagina with his fingers then told her not to tell anyone.
3. The complainant went back to the river but was afraid and upon arriving back home after swimming told her mother what the defendant did to her. The complainant was 7 years old at that time and was in class 1.
4. The defendant told the Police under caution that he touched the complainant's vagina.

Starting point

5. In assessing the sentence start point regard must be had to the maximum penalty available for the offending and factoring in aggravating and mitigating factors of the offending. The maximum penalty available for acts of indecency with a young person is 10 years imprisonment. The offending is aggravated by the fact that there is a breach of trust as the victim refers to the defendant as her cousin. There is an age disparity as the defendant was 20 years old and the victim was 7 years at the time of the offending. There is also an element of planning involved. The impact of the offending on the complainant will remain with her for some time.



6. There are no mitigating factors of the offending.
7. I adopt a starting point of 3 years imprisonment.

Mitigation

8. The defendant entered his guilty plea at the first available opportunity as sign of remorse and saving the complainant the ordeal of recounting the details in Court. The sentence start point will be reduced by 33 %.
9. The Same Day Report shows that the defendant is 20 years old. His parents were divorced when he was young and he lives with his stepmother. He has had no formal education but has attended a mechanical training conducted by a private workshop. His chief confirmed that the defendant is an active and helpful member in his community. He earns his living from gardening and does odd jobs for others as a means of earning some income and also sells kava. Counsel submits that the defendant is a first time offender.
10. For his personal factors including lack of previous conviction, the sentence start point is further reduced by 6 months. For his youth and immaturity, a further deduction of 6 months is warranted.

End sentence

11. The end sentence I impose is therefore 12 months imprisonment **effective from 16 March 2023 when the defendant was remanded into custody.**
12. It was submitted by counsel that the sentence be suspended Considering s57 of the Penal Code, the nature of the crime is sexual abuse of a young girl namely acts of indecency with a young person. The defendant is 20 years old and I have allowed deductions in the sentence start point recognising his youth. There is no extreme circumstance raised to warrant a suspension as highlighted in **Public Prosecutor v. Gideon [2002] VUCA 7.**
13. The sentence will not be suspended.
14. The defendant has 14 days to appeal if he is dissatisfied with the decision.

DATED at Luganville this 26th day of May, 2023

BY THE COURT

**D. Aru
Judge**

