

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

Criminal  
Case No. 23/2581 SC/RML

**BETWEEN:** Public Prosecutor

**AND:** Dominique Garae  
Defendant

**Before:** Justice Oliver A. Saksak

**Counsel:** Mr Jordan Aru for Public Prosecutor  
Mr Steven Garae ( Junior) for Accused

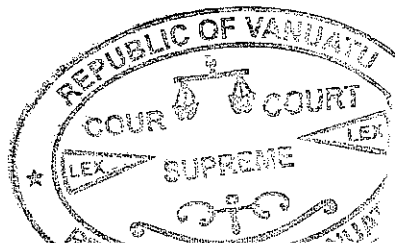
**Date of Plea:** 21<sup>st</sup> October 2024  
**Date of Sentence** 22<sup>nd</sup> October 2024

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**SENTENCE**

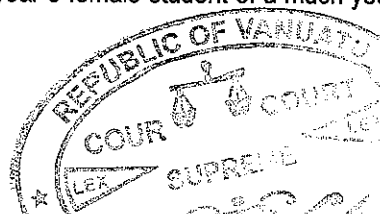
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1. The defendant pleaded guilty to 2 counts of Acts of indecency with a young person, section 98A, and to 1 Count of Act of Indecency without consent, section 98 (a) of the Penal Code Act [CAP 135]. And he is for sentence today.
2. Acts of Indecency with a Young Person is serious and carries the maximum penalty of 10 years imprisonment and Acts of Indecency without consent carries the maximum penalty of 7 years imprisonment.
3. These offences were committed on three different occasions. It started in October 2022 to three defendant female students of Ambabulu School. The victim was Jamica Nickylah Viro, born on 17 May 2007 who was in Year 10 at the time. The defendant was the Boarding Master at the school at the time. He sent his daughter to ask the victim to come home with her when she spent the night. The mother went to the village. The defendant went to check on the students and returned and asked the victim for a massage. He asked her to remove her shirt and she complied. He then proceeded to massage her



chest and in doing so he also rubbed the victim's breast over her bra, with his hands. At this point the defendant's daughter came into the room and disturbed the massage. The victim got dressed and slept. The next morning she returned to the dormitory. She only reported the incident after hearing that Joane Tambeana had lodged the same complaint against the defendant. This is the charge in Count 3.

4. In relation to the offence in Count 2, it happened on 12 November 2022 to a Year 9 student by name of Edith Sine, born on 28 August 2008. She had tooth aches that day. The defendant again instructed his daughter to ask the victim to come over to their house to spend the night. At night the defendant approached the victim for a massage on her shoulder. He asked her to remove her shirt and she did reluctantly saying it was cold but he insisted. He then massaged her chest down to her breast which he touched through her clothing (bra). She felt uncomfortable and had to lie to him that she no longer felt pain in her tooth. She then wore her shirt and went to sleep returning to school the next day. She too reported the matter after hearing that Joane Tambeana had reported the defendant to the Police.
5. In relation to the charge in Count 1, the victim was Joane Tambeana, a year 8 student, born on 20 March 2009. On 13 February 2023 she was sick and did not attend classes. The defendant came around and enquired. She told him she had chest pains after which he asked her to come to his house for oil. She did and the defendant told her he would massage her shoulders to ease the pain. She refused but he insisted. She then removed her shirt and the defendant proceeded to massage her and in doing so touching her breast over her bra. She lied to him that she felt good. He stopped and she wore her shirt and returned to the dormitory where she cried and her friends came to ask her why she was crying. It was then she told them about what the defendant did to her. And the matter was reported to the police who apprehended the defendant and questioned him. He admitted committing these acts.
6. Acts of indecency with a young person was committed twice first in October 2022 and secondly in November 2022, a space of less than a month. The students were year 10 and year 9 female students who were under the care and responsibility of the defendant as their Boarding Master. The third offending was February 2023 some 3 months later to a year 8 female student of a much younger age.

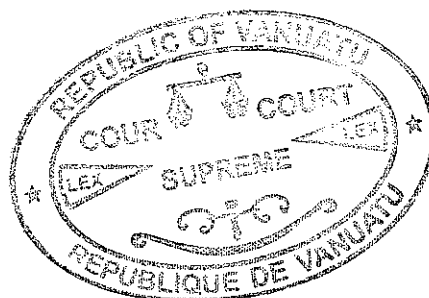


There was a serious breach of trust. These female victims were supposed to feel safe even at the home of the defendant

7. There was no mitigating circumstances for the offendings.
8. Taking all those factors into account together with the seriousness of the offendings, I am of the view a custodial sentence is appropriate. I therefore adopt the start sentences to be as follows-
  - a) For Act of Indecency- Count 1- A sentence of 3 years imprisonment, concurrent.
  - b) For Act of Indecency- Count 2- 2 years imprisonment, concurrent.
  - c) For act of Indecency without consent- 2 years imprisonment- concurrent.

Altogether the total sentence shall be 3 years imprisonment for all the three offences.

9. In mitigation, I reduce the sentence by 1/3 for guilty plea down to 2 years imprisonment.
10. For his personal factors including his clean past record, his willingness to perform reconciliation showing remorse, I reduce the balance of his sentence by a further 6 months.
11. Mr Garae is therefore sentenced to an end sentence of 1 year 6 months imprisonment as a concurrent sentence for all 3 offences he committed. This end sentence is suspended for a period of 2 years on good behaviour under section 57 of the Penal Code Act.
12. In addition I sentence the defendant to community work for 50 hours to be performed within 12 months from today.



13. That is the sentence of the defendant. He may wish to appeal if he disagrees with the sentence within 14 days.

DATED at Saratomata, East Ambae, this 22<sup>nd</sup> day of October 2024

BY THE COURT



Hon. OLIVER A SAKSAK

Judge

