

PUBLIC PROSECUTOR
v
RICHARD WILLIE AUGUST

Date: 24 February 2025
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms J. Tete
Defendant – Mr J.S. Garae

SENTENCE

A. Introduction

1. The Defendant Richard Willie August pleaded guilty and accepted the summary of facts relating to two charges of indecency with a young person contrary to s. 98A of the *Penal Code* [CAP. 135]. He is convicted on his own pleas and the admitted facts.

B. Facts

2. Mr August is the stepfather of the 12-year old complainant.
3. In 2024, the complainant's mother (Mr August's partner) travelled to Australia for seasonal work. In June 2024, the complainant was having a shower behind their house at night when Mr August approached her, held her right hand and pulled it to his penis. She felt that his penis was erect and he kept saying, "awo" (Charge 1).
4. A week later, they were at home and the complainant was washing plates in the kitchen. Mr August came into the kitchen, touched the complainant's buttocks and squeezed her breasts. She felt bad about what had happened but was afraid to tell



her older sister in fear that she would report the matter to their matter which could lead to something worse happening to her.

5. Mr August and the complainant's mother had stopped the complainant and her big sister from going to see their biological father so she remained with Mr August until she heard that her mother was returning from Australia and Mr August had gone to Port Vila to wait for her. The complainant seized the opportunity to go to her biological father at Mango station at Luganville. Whilst there, a court order was enforced evicting people from that area so then she went to her aunt and reported the incidents to her aunt. They reported the matter to the Police (Charge 2).

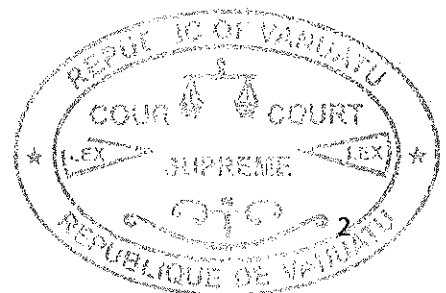
C. Sentence Start Point

6. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
7. The maximum sentence prescribed in the *Penal Code* [CAP. 135] for the offence of act of indecency with a young person is 10 years imprisonment (s. 98A).
8. There are no mitigating aspects to the offending however, it is aggravated by the following:
 - a) Gross breach of trust;
 - b) 30-year age differential;
 - c) Some degree of planning;
 - d) Repeated offending;
 - e) The offending occurred at home where the complainant should have been able to feel safe and secure; and
 - f) The psychological effect on the complainant including the loss of innocence.

9. Taking these matters into account, I adopt a global sentence starting point of 4 years imprisonment.

D. Mitigation

10. A quarter (12 months) is deducted from the sentence start point for Mr August's early guilty pleas and due to the strength of the Prosecution case against him which left him little option but to plead guilty.



11. Mr August is 43 years old. He is a Year 6 leaver. He assists his family's living with gardening and driving public transport although his medical issues require regular treatment from the hospital. He has no prior convictions. I deduct a further 3 months from the sentence start point for Mr August's personal factors.
12. I deduct a further 2 months from the sentence start point to take into account the 1 month served in custody (13 October 2024 to 13 November 2024).

E. End Sentences

13. The sentences are imposed to denounce such criminal conduct against young girls and against the values of society, to hold Mr August accountable for his criminal conduct, and to deter Mr August and others from such offending.
14. Taking all matters into account, the end sentences imposed concurrently for act of indecency with a young person are 2 years 7 months imprisonment (Charges 1 and 2).
15. The Court has a discretion under s. 57 of the *Penal Code* to suspend all or part of the sentence where it is not appropriate to make an offender suffer immediate imprisonment "... (i) in view of the circumstances; and (ii) in particular the nature of the crime; and (iii) the character of the offender."
16. This was offending of a sexual nature which counts against suspension of the sentences however it was at the lower end of the scale involving touch over clothing. Mr August's prior clean record and prospects for rehabilitation favour suspension of the sentences. Accordingly, the sentences are suspended for 3 years on the condition that Mr August commits no further offence within that period. Mr August is warned that if he is convicted of any offence in the next 3 years, that he will be taken into custody and serve his sentences of imprisonment imposed today as well as the penalty imposed for the further offending.
17. In addition, Mr August is to complete 100 hours of community work within 12 months.
18. Mr August has 14 days to appeal against the sentence.

**DATED at Luganville this 24th day of February 2025
BY THE COURT**


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Justice Viran Molisa Trief

