

**PUBLIC PROSECUTOR**

**v**

**JESSIL LULU RAVUTIA**

Date of Plea: 2 December 2024  
Date of Sentence: 11 April 2025  
Before: Justice M A MacKenzie  
Counsel: Public Prosecutor - Ms J Tete  
Defendant - Mr R Willie

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**SENTENCE**

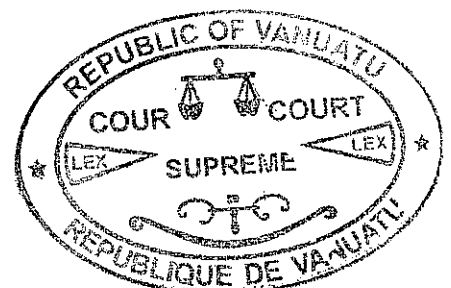
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**Introduction**

1. Mr Jessil Ravutia, you appear for sentence having pleaded guilty to two charges of unlawful sexual intercourse contrary to s 97(1) of the Penal Code [CAP135]. The maximum penalty for this offence is life imprisonment.

**The Facts**

2. You had sexual intercourse with the 12 year old victim on two consecutive days in October 2024. At the time, you were aged 16 years. You turned 17 a month later in November.
3. The first time was on 6 October 2024. The victim was playing on a mat outside her grandmother's house. You called out to her to come and see you. She did. You then took her into her grandmother's room and locked the door. You removed the victim's clothes, made her lie down on the floor, and then inserted your penis into the victim's vagina. She felt pain. You then ejaculated onto a cloth. You told the victim not to tell anyone.



4. The second time was the next day, 7 October 2024. The victim was at home with her grandmother and little brother. You called out to her again. You took her into her grandmother's room again and locked the door. You held her and made the victim suck your penis for a while. You made the victim lie down and you applied oil to her vagina and your penis. You inserted your penis into her vagina and had sexual intercourse until you ejaculated.
5. Under caution, you made admissions to the allegations.

### **Sentencing purposes/principles**

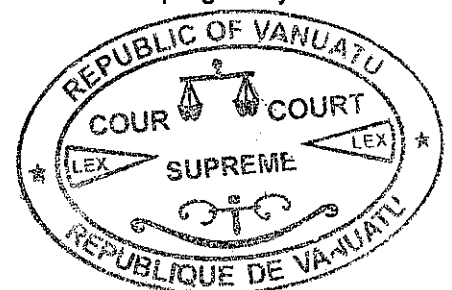
6. The sentence I impose must hold you accountable and must denounce and deter your conduct. The sentence should ensure you take responsibility for your actions, and help you to rehabilitate. It must also be generally consistent.

### **Approach to sentence**

7. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

### **Starting point**

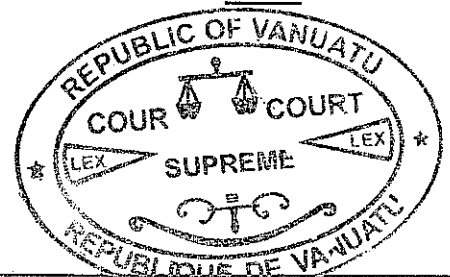
8. The first step is to set a starting point to reflect the aggravating and mitigating features of the offending, and with reference to the maximum penalty for the offence.
9. The aggravating factors are:
  - a. The offending took place at the victim's home where she was entitled to feel safe.
  - b. The victim was vulnerable because of her age, the age differential between the two of you, and because you took her into a bedroom and locked the door on both occasions. This meant it was difficult for her to get away from you, so increased her vulnerability.
  - c. There was a degree of premeditation and planning as you took the victim into her grandmother's room and locked the door.
  - d. There were two incidents.
  - e. The risk of exposing the victim to sexually transmitted diseases and pregnancy because you did not use protection.



- f. The emotional and psychological harm to the victim. While there is no specific information about the impact, it is well recognised that harm can be longstanding and may not manifest itself until many years down the track.
10. There are no mitigating features of the offending itself.
11. The prosecutor submits that that the appropriate starting point for the unlawful sexual intercourse is 6-8 years imprisonment. Defence counsel submits that the appropriate starting point is no more than 7 years imprisonment.
12. The leading case in this area is Public Prosecutor v Gideon [2002] VUCA 7, but the facts do not help much in setting the appropriate starting point in this case. In terms of cases which might assist in selecting the appropriate starting point, I have considered the cases cited by counsel. In Public Prosecutor v Tanis [2023] VUSC 45, a starting points of 8 years imprisonment was adopted for a one off incident of unlawful sexual intercourse. *Tanis* provides some assistance here, because there are factual similarities. In that case, the victim was 11 years at the time of the offending. The defendant was 17 years. They were related as the defendant was a brother to the victim. One day, she woke up to find the defendant in her room. He had sexual intercourse with her and ejaculated outside. There was also a second incident which resulted in a charge of indecency. The aggravating factors relevant to setting the starting point of 8 years imprisonment are similar to the present case, although I accept that the present case does not involve a breach of trust. But balanced against that, the present case involves two incidents of unlawful sexual intercourse, compared with the one incident in *Tanis*. I do not think that the case of Public Prosecutor v Malites [2021] VUSC 190 is of assistance, because the sexual acts in that case were different to those in the present case.
13. Given the aggravating factors that I have referred to, including that this was not a one-off incident, and the factual similarities with *Tanis*, I adopt a starting point of 8 years imprisonment.

### **Guilty plea and personal factors**

14. You are entitled to a one-third discount for your guilty plea. There was an early guilty plea, which saved the victim from the trauma of having to give evidence. The sentence is reduced by 2 years 8 months imprisonment for that factor.
15. Mr Willie submits that the Court should reduce the sentence by 50 % for the guilty plea and your age. He further submits that the Court should reduce the sentence by 18 months for your clean record, co-operation with police and remorse. A preliminary point is that the guilty plea reduction is to be separately identified, as was noted in *Tevi v*

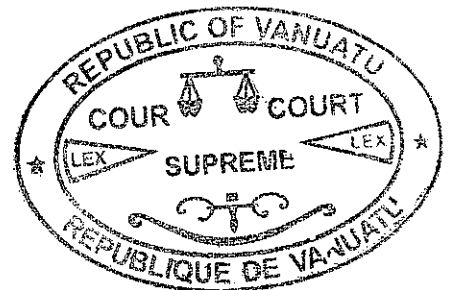


Public Prosecutor [2024] VUCA 43. So, it is not helpful for counsel to refer to the guilty plea reduction, in combination with youth.

16. In terms of personal mitigating factors, the reduction sought is approximately 35% of the starting point. I consider that this is too high, even taking into account your age at the time. In Public Prosecutor v Ulas [2018] VUCA 54, the Court of Appeal said that the discount for mitigation should not as a general rule be more than 50% of the start sentence otherwise it is self-defeating as punishment for the crime.
17. You are now aged 17 years and a first offender. The offending happened about a month before you turned 17 years. It is recognised that there are age related neurological differences between young people and adults, and that it is undesirable to impose crushing sentences, because generally young people have a greater capacity for rehabilitation. As noted in Heromanley v Public Prosecutor [2010] VUCA 25, in the sentencing of young offenders, reform and rehabilitation may take priority over punishment and deterrence.
18. You have good family and community support. You are a member of a church, are single and physically fit. You are a year 8 student. You told the Probation report writer that you were not aware that it is against the law to have sex with an underage female. You are remorseful and ask for forgiveness. Further, you co-operated with police.
19. For all these factors, the sentence is reduced by 2 years (25 %).

### End Sentence

20. The end sentence is 3 years 4 months imprisonment.
21. Your counsel contends that the sentence should be suspended. There is a discretion to suspend the sentence, pursuant to s 57 of the Penal Code, taking into account the circumstances, the nature of the crime, and your character.
22. As the Court of Appeal said in Public Prosecutor v Gideon [2002] VUCA 7, and Public Prosecutor v Scott [2002] VUCA 29, it will only be in an extreme or exceptional case that suspension could ever be contemplated in a case of sexual abuse. In Public Prosecutor v Tulili [2024] VUCA 54, the Court of Appeal said that the *Gideon* and *Scott* principles concerning suspension remain applicable even when an offender is young. I acknowledge that in sentencing relatively young offenders, reform and rehabilitation are important sentencing principles. Further, that Article 37 of the United Nations Convention on the Rights of the Child applies in Vanuatu, so that imprisonment of a child should be used only as a matter of last resort. But as the Court of Appeal said in *Tulili*, the Convention is also concerned with the protection of children from sexual abuse.



23. I accept that you are a first offender, are relatively young, are remorseful, are willing to complete a custom process, and were co-operative with police. However, this is serious offending. You took advantage sexually of a vulnerable young female on two different occasions. There was a degree of premeditation involved. In the present case, important sentencing principles to be weighed include not only rehabilitation, but deterrence, denunciation, the interests and protection of the victim and children generally, and also consistency.
24. In *Public Prosecutor v Lop* [2024] VUCA 56, the Court of Appeal considered a sentence appeal against full suspension of sentence for a relatively young defendant who pleaded guilty to a charge of unlawful sexual intercourse under s 97(2) of the Penal Code. The victim was aged 13 years and the defendant was aged 17 years 7 months. The defendant did not know the victim. He grabbed her and forced her into his home. He had penile sexual intercourse with her. The Court of Appeal said that the case could not reasonably be described as exceptional.
25. The combination of factors here, including youth, clean record, co-operation with police, remorse and willingness to complete a custom process, do not amount to exceptional circumstances, having regard to *Gideon*, *Scott* and *Tulili*. The seriousness of the offending, the need for protection of children, deterrence and denunciation and the need for consistency in sentencing in this area mean that the sentence should not be suspended, and so I decline to suspend the sentence.
26. I impose an immediate sentence of imprisonment of 3 years 4 months imprisonment. You have been in custody since 22 October 2024. Therefore, the sentence is to be backdated to commence from that date.
27. You have 14 days to appeal against the sentence.
28. I make a permanent order suppressing the name and identifying details of the victim.

DATED at Port Vila this 11th day of April 2025

BY THE COURT

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Justice M A Mackenzie

