

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

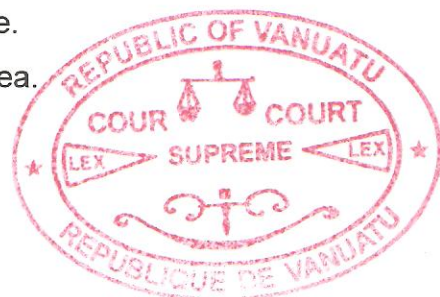
BAPTISE HILL BOHILAN

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mr Gregory Takau for Public Prosecutor
Mrs Marisan P. Vire for Defendant

SENTENCE

1. Baptist Hill Bohilan you pleaded guilty to one count of Attempted Incest contrary to section 95 (1) (a) and to one count of Act of Indecency without consent contrary to section 98 of the Penal Code Act Cap 135.
2. The maximum penalties for a count 1 offence is 10 years imprisonment and for a count 2 offence is 7 years imprisonment.
3. The appropriate punishment for your offending in this case should be a custodial one. And the starting point for both offences is 3 years imprisonment to run concurrently.
4. However, the 3 years will be increased by 2 years for aggravating features of your case which are that –
 - (a) Your actions were planned and premeditated.
 - (b) You breached parental trust and confidence towards your daughter.
 - (c) You threatened your victim with a knife.
 - (d) You lured your victim to a secluded area.



- (e) The disparity of age between you and the victim who was 19 years old.
5. You now have a total of 5 years imprisonment to be served in respect of the two charges made to run concurrently.
6. I now consider your mitigating factors which are –
- (a) That you are a first-time offender.
 - (b) Your remorse.
 - (c) Your performance of custom ceremony showing remorse.
 - (d) Your health and physical conditions. (With medical report).

I consider that a period of 12 months should be deducted from your 5 year term. And I so order.

7. I further order that a period of 7 months 2 weeks and 5 days be deducted from the balance of 4 years imprisonment leaving the balance at 31 months 2 weeks and 2 days. In years it is 2 years 7 months 2 weeks and 2 days. The 7 months 2 weeks 2 days are the period you have already spent in custody to date.
8. I consider that your current medical condition make your case fall within the exceptional circumstances rule enunciated by the Court of Appeal that warrants a suspended sentence.
9. Accordingly, I order that your sentence of 2 years 7 months 2 weeks and 2 days be suspended for a period of 2 years from today's date. The condition is that you behave yourself during this period and not commit any further or other offences. If you do, this sentence will



automatically be activated and you will go to jail without any further notice.

10. That is the sentence of the Court. You are released forthwith from the Correctional Centre.

DATED at Luganville this 16th day of September 2010.

BY THE COURT


OLIVER A. SAKSAK

Judge

