

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

Criminal Case No. 118 / 2011

PUBLIC PROSECUTOR

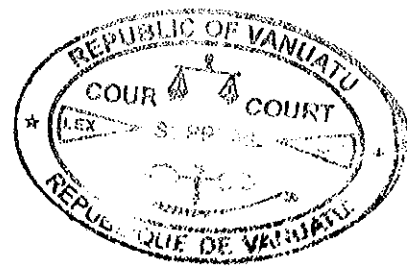
V

NICK KEITH TAMARA

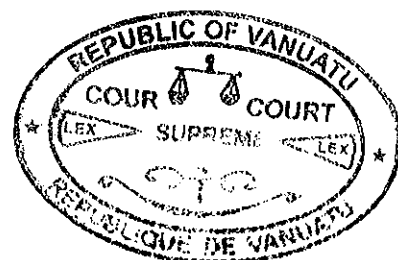
Hearing: 14 October 2011
Before: Justice Robert Spear
Appearances: Tabisa Harrison for the State
Francis Tasso for the Accused

SENTENCE

1. Nick Keith Tamara, you are for sentence having pleaded guilty to 1 representative charge of unlawful sexual intercourse. Your plea of guilty was entered on 6 September 2011 at the first reasonable opportunity.
2. I have had the benefit of comprehensive sentencing submissions filed by the Public Prosecutor as well as detailed pre-sentence report that is most helpful and insightful. Additionally the sentencing is to be based upon a summary of facts that has been prepared and presented by the Public Prosecutor and which you take very little issue.
3. This case concerns sexual intercourse that took place on occasions and by consent between a 16 year old boy and a 14 year old girl who were at the same school. The summary of facts indeed confirms that they were in a relationship and had been for some time. Unfortunately, the complainant fell pregnant which, no doubt, is how the offending came to the notice first of her parents and then the police.



4. The pre-sentence report provides a detailed appraisal of your situation and talks about the promise that you show. Your personal qualities and your potential are also remarked on favourably by many others as per the attachments to the pre-sentence report.
5. It is clear that you are an intelligent young man with an excellent future. Unfortunately, your sexual experimentation with your girlfriend of that time has meant that she is now pregnant and she will have to work through the implications of that no doubt in conjunction with her parents. It is of significance, however, that you have not attempted to distance yourself from her but her parents (and I make no criticism of them in this respect) have forbidden the relationship to continue. So, there has been no further contact between you and the complainant.
6. This is an offence that is designed to protect the young and vulnerable but it also recognises that there are significant differences between the most serious case of this type and the least serious. While, as the older of the two, you had the responsibility to exercise restraint, it is clear that the relationship was a consensual one between two young people of almost the same age. In my view, that places this into the category of the least serious offending of its type. However, it is activity that is prohibited by law and it had the unfortunate consequence that the complainant has fallen pregnant. Of course, pregnancy is almost always a risk arising from sexual intercourse.
7. In my view, the fact of this prosecution, the shame that you have brought upon your family and yourself, and the difficulties that this has caused you will, to a large extent, be sufficient punishment by itself.
8. The probation officer considers that the support provided by your parents and the guidance shown by them will be sufficient and that there is no need for a sentence of supervision.
9. The recommendation of the probation officer is for community work.



10. Mr Tasso on your behalf urges the Court to accept that recommendation as being a sufficient and proportionate response by the Court in this particular case to this particular offending.
11. I do not consider that there is a need to create further victims here or to victimise anyone further. As I have said, this is a case about two young people who were clearly attracted to each other and who experimented sexually. That sort of interaction has been going on for centuries. If the complainant had not fallen pregnant, it is unlikely that you would have been apprehended for this offending.
12. The appropriate sentence in this case is one of 100 hours community work and that is the sentence imposed.
13. You have 14 days to appeal this sentence if you do not accept it. You must go to the Court office at 3 pm today to collect your community work order.

BY THE COURT

