

PUBLIC PROSECUTOR

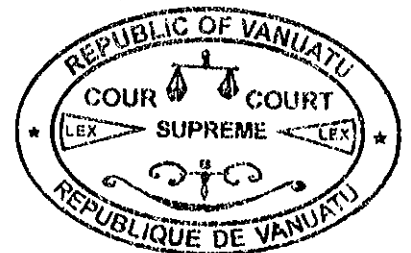
V

WILLIE ISAAC
JOHN TUWI

Hearing: 20 April 2011 (on Epi)
Before: Justice Robert Spear
Appearances: Simcha Blessing for State
Andrew Bal for Accused

SENTENCE

1. Willie Isaac and John Tuwi you are each for sentence today on a charge of Unlawful Sexual Intercourse. This offending occurred back in 2006 - with you John Tuwi it occurred in June 2006; with you Willie Isaac in August 2006. The girl concerned was only 14 years of age at that time. You were each 18 years of age.
2. It is unfortunate that it had taken so long for this case to be brought to this state of conclusion. It is unfortunate for the complainant and her family and it is unfortunate for you. However there are and have been practical considerations that have meant that that it has been difficult to resolve this case before now notwithstanding that you made early admissions, full confessions, to the Police when first approached about this.
3. In respect of each of you, the young girl concerned was also a member of your village so she was someone well known to you. She was however a young girl of only 14 years of age and someone whom we can justifiably describe as young and vulnerable. That indeed indicates the purpose of this particular crime which is to protect the young and vulnerable.
4. Those older men who want to have sexual intercourse with young girls must understand that they run the distinct risk of having to pay for the consequences.
5. What is important with this sentence today is that this Court says to you that this is serious offending - it is not offending that can be overlooked - it is offending that must be denounced with emphasis.



6. It is a complicating factor here that after this offending by the two of you, a 28 year old man (one Kora Tomol) had sexual intercourse with this same 14 year old girl. He was also from your village. She fell pregnant to him and has had a child to him. He was sentenced by Dawson J on 5 May 2009 to a term of 2 years imprisonment suspended for 2 years.
7. That case has some unusual aspect to it. The first is that this man Kora Tomol and the complainant continued their relationship quite consensually and voluntarily. Indeed, they still remain together and that is since the sentence was passed on 5 May 2009. It would appear therefore that the complainant has been able to move on with her life and this is not a case of sexual offending which has blighted her life. Be that as it may, criminal offending of this type must have consequences for you.
8. The starting point must be imprisonment for 3 years and that was indeed the starting point adopted by Dawson J for Kora Tomol. That was reduced by 1 year to reflect the early guilty plea.
9. There are differences of course between that case and yours. They have been emphasized by Mr Bal. The first is that your offending occurred before hand and, given the size of the village, one would imagine that your offending was known by Kora Tomol and it might well had been an encouragement to him. In that respect, I have to speculate as I have no information either way on it. Of greater significance is that fact that he was 28 years of age at that time where as you were only 18. Accordingly, your offending can, to a certain degree, be put down to youthful indiscretion on your respective parts. However, at 18 years of age you knew what you are doing, you knew that she was a young girl and without question both of you knew that you should not be having sexual intercourse with her.
10. The Court has to denounce this offending with this sentence. It must also send the clear message to those who might consider having sex with young girls that it is not worth the risk.
11. In respect of you Willie Isaac you were 18 years of age at that time, you are now 24. This is the only occasion that you have ever offended against a criminal law. It was your first offence and it has been your last offence. You are in a de facto relationship that is now of some duration which indicates some stability in your life. As well, your wife is pregnant and you have a 1 year old son. You are the sole provider of the family. I note that you were educated to Year 10. I also note that you are prepared to participate in a custom ceremony with the victim and she is similarly agreeable to undertaking that with you under the guidance of your chief.
12. John Tuwi, again 18 at the time of the offending, now 25 years of age. It was your first criminal offence and it has been the last criminal offence. I note that you are also in a de facto relationship and your wife is 8 months pregnant. You are additionally the sole provider to your family. As with Willie Isaac, you are prepared to undertake custom ceremony with the complainant under the guidance and direction of your chief.
13. What I propose to do is identify what I consider the appropriate starting point for this offending and move from it to recognise certain factors. First, as I



indicated, this offending requires a starting point of 3 years imprisonment. However, you are both to be considered as less culpable than Kora Tomol because there was a significant age difference in his case and there wasn't in yours. So, for that reason I reduce the sentence to 2 years imprisonment. I then have regard to your guilty plea and again all credit to be given to you notwithstanding that this case is taken so long to get to this point.

14. Mr Bal asks for a full one third to be taken off the sentence given that the guilty pleas were entered at what we described as the first reasonable opportunity. He emphasized that there were practical reasons why it was difficult for your guilty pleas to be entered at an earlier time. Mr Blessing for the State accepts that. It is unnecessary for me to go further into that given the State's concession.
15. I am also drawn to achieve some parity, some proper comparison, between your case and the sentence imposed on Kora Tomol. For that reason, I am bringing the sentence of imprisonment to be considered here right down to 1 year's imprisonment.
16. I will suspend it because you both remorseful, everyone has moved on in their lives and because you are prepared to undertake a custom ceremony.
17. So that 1 year's imprisonment is suspended for 2 years (*Effect of sentence explained to them by Mr Bal*).
18. You will however each carry out 100 hours community work and you are placed under supervision for a term of 12 months. The conditions attaching to supervision are these:-
 1. You will undertake such spiritual counselling as may be directed by your probation officer in conjunction with your church.
 2. You will undertake traditional counselling as directed by your Chief.
 3. You will undertake a custom ceremony with the complainant again as directed by the Chief.
 4. You will not leave Epi without prior permission of your probation officer for that 12 months supervision period.
12. That is the sentence I impose upon you. You each have 14 days to appeal this sentence if you did not accept it.

BY THE COURT

