

PUBLIC PROSECUTOR

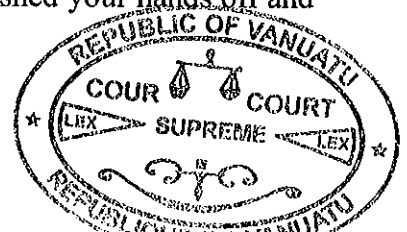
V

JOHN MAHIT

Hearing: 20 November 2012
Before: Justice Robert Spear
Appearances: Simcha Blessing for the Public Prosecutor
Andrew BAL for the defence

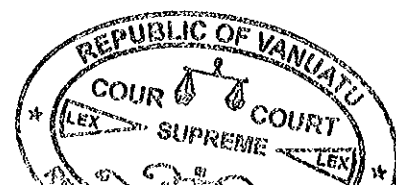
SENTENCE

1. John Mahit, you are for sentence having pleaded guilty to one charge of committing an indecent act; an offence under section 98 (a) of the Penal Code. The maximum penalty for this offence is imprisonment for 7 years.
2. No dispute is taken with the summary of facts presented by the prosecutor. In October of last year, a 15 year old girl, the daughter of close friends of yours, came back to Port Vila from school to see her parents. On the morning of 24 October 2011, the complainant decided to visit her mother who was at work in No. 2 and was walking towards that area in Port Vila. You stopped your vehicle beside her and inquired whether she wanted a ride. She explained that she was going to see her mother. You offered her a lift to see her mother. She initially declined your offer as she said that she was already quite close to where her mother worked and that she was happy to walk there. However, you were quite insistent and, as you were a family friend and someone she felt that she could trust, she eventually relented and got in to the car.
3. Immediately this young girl got into your vehicle, you closed the windows and then started to touch her on her upper body around her breasts. She pushed your hands off and



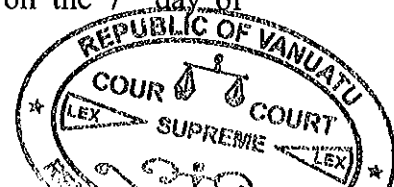
you then increased your attention to her by touching her on her upper legs and then proceeding to rub her around her genital region with your hands over her clothing. Again, she was eventually able to push your hands away. This occurred while the car was moving. When it stopped at an intersection, the complainant had the presence of mind to open the car door and jumped from the vehicle. She rolled down to the side of the road and then ran to her mother's office where she made the complaint. She was screaming while she was running and it is noted that you were calling out to her at that time. The matter was immediately reported to the police. I am unable however to understand why it has taken over a year for this case to get to this stage.

4. Be that as it may, when you first appeared in this Court on this charge on 7 August 2012 you entered a plea of not guilty. The case was subsequently relisted for 28 September 2012 for a trial date to be fixed and, at that time, you asked to be re-arraigned. You then entered a plea of guilty. The only change to the charge between the time you first appeared on 7 August 2012 in this Court and on 28 September 2012 when you pleaded guilty was that a typographical error was corrected changing 42 October to 24 October. You are certainly entitled to credit for entering a plea of guilty but it wasn't at the first reasonable opportunity and indeed it was a change of plea.
5. This is appalling offending. Here you are, a man in his mid 30s, endeavouring to take sexual advantage of a 15 year old girl and not just any girl but the daughter of close friends. The fact that you were able to persuade this young girl to get into your car was because of your friendship with her parents. She clearly trusted you and in that respect she was completely misguided.
6. I have a pre-sentence report that has been prepared today. It explains that you are 38 years of age and you are currently working as a Senior Fisheries Observer and that you have been so for a number of years. Indeed, you are in a senior position with management responsibilities and that you supervise some 32 observer officers. You were married but are now separated with 2 daughters; one of whom resides with her grandmother on your home island and the other one with you.
7. I am sure you have been informed that the customary response of the Court is first to consider a sentence of imprisonment for adults who sexually abuse young girls. This was



sexual abuse. There it can be no justification for it. It was appalling offending and the dominant feature of this sentence must be one of punishment and deterrence. You must understand that if you ever commit offending such as this again, you will go to prison for a lengthy period of time. From that, you can take it that I intend to impose a sentence that does not send you to prison today. Indeed, in his sentencing submissions, Mr Blessing acknowledged that an appropriate sentence would be a suspended term of imprisonment and with some additions which I am prepared to accept that. If, however, the offending had progressed beyond what I have explained, you would be going to prison today. In fact you would most likely have already been in prison pending sentence.

8. The appropriate sentence as a starting point is one of 12 months imprisonment which I will reduce by 25% to 9 months imprisonment to recognise your late guilty plea not entered and the other penalties that I propose to impose upon you.
9. The sentence of this Court is that you are sentenced to 9 months imprisonment which I suspend for a period of 2 years. It means that if you are convicted of another offence within 2 years from today, you will go to prison for that 9 month period plus any further time that your other offending requires.
10. You will carry out 200 hours community work. You are required to attend the Court office tomorrow at 3 pm when this community work order will be served on you.
11. A compensation report has not being prepared. The pre-sentence report indicates that you were prepared to undertake a custom reconciliation ceremony but the complainant's family and the complainant did not wish that to happen. That is their right. However I accept that you are remorseful and that you want to make amends. Rather than delay sentencing any further, I simply note that you are prepared to waive the preparation of a compensation report.
12. You have discussed matters with Mr Bal and you offer the sum of Vt 100,000 to the complainant as compensation for the wrong that you have done to her which will help her with her school expenses and generally to get over what must have been a traumatic experience for her. So, the further sentence of this Court is that you pay compensation in the sum of Vt 100,000 which will be paid at the rate you offer of Vt 25,000 per month with the first payment on Friday 7 December 2012 and thereafter on the 7th day of



January, February and March 2013. Those payments will be directed to the father of the complainant who is to receive those funds and then apply them for the assistance of his daughter. Probation is to monitor the sentence to ensure that the payments are made

13. You have 14 days to appeal this sentence if you do not accept.

14. You should count yourself a lucky man that you are not going to prison today.

BY THE COURT

