

IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU

(Criminal Jurisdiction)

Criminal Case No. 26 of 2013

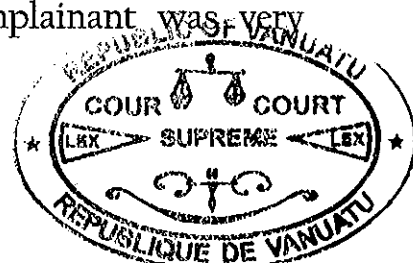
**PUBLIC PROSECUTOR vs. SAMUEL GEORGE MELTEN**

Coram: Judge Aru

Counsels: Mrs. T. Harrison for the Public Prosecutor  
Mr. A. Bal for the Defendant

**SENTENCE**

1. George Melten you appear today for your sentence.
2. You were originally charged with two counts but the Public Prosecutor entered a nolle Prosequi for the charge of sexual intercourse without consent and on 7 May 2013 you pleaded Guilty to the charge of unlawful sexual intercourse contrary to section 97 1) of the penal Code and so you were convicted accordingly . The penalty for this offence is imprisonment for a term of 14 years.
3. The facts as provided in the Prosecution brief of facts are not disputed. The complainant Bong Jill was 8 years old and she made her complaint on 18 February 2013 that on 16 February 2013 you had sex with her at her home at Black Sands. On the night of 16 February 2013 the complainant was at her house with Apu Daniel her aunty Meri Apia, Tawi John Win and her small sister Martha. The complainant's parents were away at that time, her father went to a funeral at Ohlen and her mum went to sell kava at a nakamal.
4. The complainant's aunty made them dinner that night and after dinner the complainant went inside the house with Martha to sleep. They took the candle inside the house with them and not long the candle went out so the complainant came outside again to light it. She took the candle back inside the house when the defendant called out to her .The complainant was very



surprised to see the defendant because he did not come back to the house to sleep the night before. The complainant went to see the defendant and the defendant removed her panty and trousers she was wearing and made her lie down on his bed. Then the defendant removed his pants and before all that he removed the candle from the complainant and blew it. The defendant then laid on top of the complainant and she felt his penis enter her vagina. It was so painful that she pushed him away but he was too heavy and too big for the complainant. She told the defendant to stop as it was very painful and removed himself from her. She was covered in blood and the place was very dark so she brought her trousers outside to put it on. Her stomach was in pain and her aunty called out to her while standing outside. Her aunty instructed her to wash off the blood from her legs then she lit another candle for her and went to bed. When the complainant's parents arrived at the house, they took the complainant to the hospital. Later upon receiving the complaint, the defendant was arrested and he made a statement to the Police admitting the offence.

5. In sentencing you today, I have taken into account the submissions made by the Public Prosecutor and the submissions made by your lawyer. I have also considered the pre sentence report prepared by your probation officer.
6. Your offending is very serious as it carries a maximum penalty of 14 years imprisonment. In **Public Prosecutor v Gideon [2002] VUCA 7** the Court of Appeal made it very clear that in sexual abuse cases the suspension of a sentence could only be considered in the most extreme of cases. It said that:-

*“Men who take advantage sexually of young people forfeit the right to remain in the community.”*

7. You have obviously taken advantage of the complainant who is 8 years old and much younger than you are. After having removed her panty and trousers you put out the candle and forced yourself upon her penetrating her vagina with your penis causing her pain and loss of blood. Whatever sentence I impose on you today must reflect the seriousness of your offending. As a starting point of your sentence, I sentence you to 6 years.
8. Factors which aggravate your offending are that there is a big age difference between you being 17 and the complainant who was 8 years old and you took

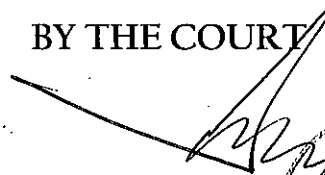


advantage of her at night causing pain and loss of blood which required medical attention. Lastly you breached her trust as you were residing with the complainant's family .I therefore increase your sentence to 8 years.

9. Your pre sentence report states that you are single and you left school at class 6. You are currently employed as a construction worker and this is your first offending. You are remorseful for your actions for which you blame your inability to control your lustful feelings. This cannot be an excuse for your offending. You have attempted custom reconciliation but the complainant's parents have refused this .Given that you are a first time offender I reduce your sentence by 12 Months which leaves you with a sentence of 7 years. For your early guilty plea you are entitled to a one third discount of your sentence which I reduce to 4 years imprisonment.
10. Your lawyer submits that you have spent roughly a month in custody that is also deducted leaving a sentence of 3 years 11 months. Furthermore, you are a young person and given your age and cooperation with the Police I make a further deduction of 11 months from your sentence leaving you with an end sentence of 3 years imprisonment which is effective as from today.
11. You have 14 days to appeal this decision if you are not happy with it.

DATED at Port Vila this 29 day of July 2013

BY THE COURT



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D. Aru  
Judge

