

**PUBLIC PROSECUTOR – VS – BULE PIERRE**

**Coram:** *Mr. Justice Oliver A. Saksak*

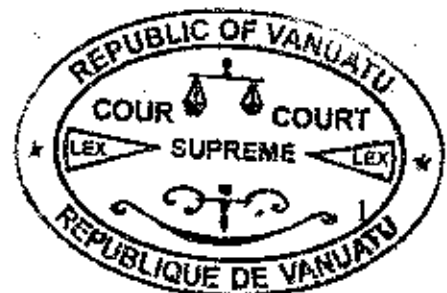
**Counsel:** *Public Prosecutor, Ms Kayleen Tavoia for the State  
Mr. Lent Tevi for the Defendant*

**Date of Hearing and Sentence:** *3<sup>rd</sup> September 2013*

**SENTENCE**

1. Pierre Bule you were charged with one count of sexual intercourse without consent contrary to sections 90 – 91 (count 1), one count of attempted sexual intercourse without consent contrary to sections 28, 90 – 91 (count 3) and with two counts of acts of indecency without consent (counts 2 and 4) contrary to section 98 (a) of the Penal Code Act Cap 135 (the Act).
2. You pleaded guilty to all four counts and accepted the facts presented by the Prosecutions. However, Mr. Tevi informed the Court that you do not accept the medical report.
3. The maximum penalty for sexual intercourse without consent is life imprisonment. For attempted sexual intercourse without consent it can be punishable as a principal offender. And for acts of indecency without consent, the maximum penalty is 7 years imprisonment.
4. For pleading guilty to all four charges, the Court enters convictions against you on each of the four charges.
5. The appropriate punishment for you is to be custodial sentences to serve the following purposes:-

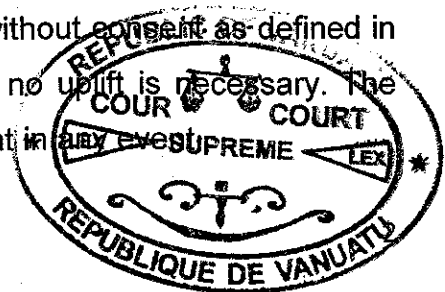
(a) To mark the seriousness of your offendings;



- (b) To mark public disapproval of your actions;
  - (c) To deter you and other men or boys;
  - (d) To protect young girls and women; and
  - (e) To punish you appropriately and adequately.
6. Your actions on a 13 year old girl appeared to be planned before hand. Your actions were repeated more than once over a period of about one year from 2012 to 2013. Although there was no penile penetration, Section 89 A (d) of the Act defines sexual intercourse to mean and include *"the licking, sucking or kissing, to any extent, of the vulva, vagina, penis or anus of a person..."*
7. There was a great disparity of age, about 20 years with you being about 47 years old and she being 13 years old. And there appears to be a breach of trust.
8. Taking all these factors together, I consider that the starting point for you will be as follows:-
- (a) For Sexual Intercourse Without Consent – 6 years imprisonment as the starting point.
  - (b) For Acts of Indecency Without Consent – 4 years imprisonment as the starting point concurrent.
  - (c) For Attempted Sexual Intercourse Without Consent – 6 years imprisonment as the starting point to be served concurrently; and
  - (d) For Acts of Indecency Without Consent – 4 years imprisonment to be served concurrently.

In total you will serve a concurrent sentence of 6 years imprisonment.

9. There will be no uplift on the 6 years sentence. The lead offence is sexual intercourse without consent. The indecent actions were repeated but were performed during the acts of sexual intercourse without consent as defined in section 89 A (d) of the Act. It is for this reason no uplift is necessary. The medical report is under challenge but it is irrelevant in any event.



10. You are entitled to a reduction of Sentence due to your mitigating factors as follows:-


- (a) For guilty plea – 2 years are deducted from the 6 years bringing the Sentence down to 4 years imprisonment. This represents a 1/3 reduction.
- (b) For customary reconciliation showing remorse and cooperation with the police during investigation and interview, the Court allows a further reduction of 1 year (12 months). That brings the Sentence down to 3 years imprisonment. That is the total concurrent Sentence you have to serve at the Correctional Centre.

11. You have been in custody on remand from 11<sup>th</sup> July 2013. Your Sentence of 3 years imprisonment is back dated to 11<sup>th</sup> July 2013.

12. That is the Sentence of the Court. You have a right of appeal against this Sentence within 14 days if you are not in agreement with it.

**DATED at Luganville this 3<sup>rd</sup> day of September 2013.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**  
Judge

