

IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU

Criminal Case 149 /2014

*(Criminal Jurisdiction)*

PUBLIC PROSECUTOR VS. JOHN TARI WEWEU

*Hearing in Court: Wednesday 15<sup>th</sup> April 2015*

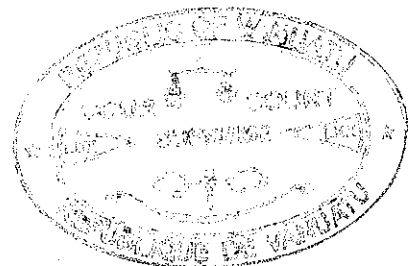
*Before: Justice Aru*

*In attendance: Mr Ken Massing for the Republic Prosecutor*

*Ms Jane Tari for the Defendant*

SENTENCE

1. John Tari Weweu you appear today for sentencing in this matter.
2. After a three day trial, on the 16 March 2015 you were found guilty and convicted of one count of an act indecency without consent contrary to section 98 a) of the Penal Code [CAP 136] which carries a maximum sentence of 7 years imprisonment and one count of an act of indecency with a young person contrary to section 98A of the Penal Code which has a maximum penalty of imprisonment for 10 years .
3. The factual basis for your sentence as found by the court in brief are that the three complainant girls who are related to you were at the time of the offending living together in a house with you at Lolovoli village on Ambae. And between June and August 2014 the abuse begun. At different times at night you touched their private parts, you had two of the complainants to masturbate you and to suck your penis until you ejaculated and



on another occasion you sucked the breast and vagina of the third complainant. You then gave them money and bought them bush knives and sweets not to report you.

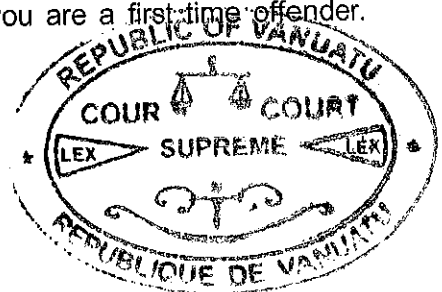
4. In sentencing you today I have taken into account the submissions made by counsel. Your offending is very serious as all three complainants were still in primary school when you abused them . Although no physical harm was caused to their bodies , the psychological effects will remain with them for the rest of their lives .In Public Prosecutor v Gideon [2002] VUCA 7 the Court of Appeal said:

"....there is an overwhelming need for the court on behalf of the community to condemn in the strongest terms any who abuse young people in our community. Children must be protected. Any suggestion that a 12 year old has encouraged or initiated sexual intimacy is rejected. If a 12 year old is acting foolishly then they need protection from adults. It is totally wrong for adults to take advantage of their immaturity.

...

It will only be in a most extreme of cases that suspension could ever be contemplated in a case of sexual abuse . ....Men must learn that they cannot obtain sexual gratification at the expense of the weak and the vulnerable ....Men who take advantage sexually of young people forfeit the right to remain in the community."

5. Taking account of these remarks, the appropriate sentence in this case must therefore be a custodial one and I adopt a starting point of 5 years imprisonment in respect of count 2 being the most serious of the two offences charged. Factors which aggravate your offending are first you are a mature man in your fifties whilst the three complainants were of ages ranging between 11 years to 15 years and were all attending primary school .They looked to you for care and protection as you are related to all three of them and were living together, instead you abused them .Your offending has led to a breach of trust.Finally the offences were repeated over a period of three months from June to August 2014. Taking this factors into account I increase your sentence to 6 years imprisonment.
6. Despite issuing directions for the preparation and filing of a pre sentence report, none was filed by your probation officer. I note however that you are a first-time offender.

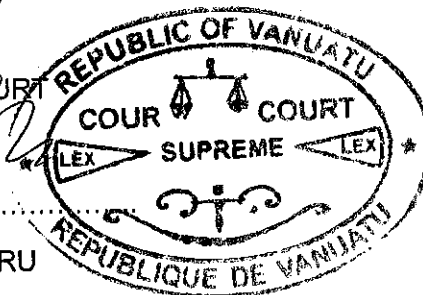


Counsel on your behalf provided a hand written report of a reconciliation ceremony purported to have taken place on 28 February 2015 at Lolovoli village before the trial hearing. It is reported that your three sisters on your behalf exchanged 6 mats and calico with the three complainants. I note however that the report is not signed by anyone hence its truth cannot be verified.

7. Being a first time offender I deduct one year from your sentence. A further deduction is made for time spent in custody being 7 months leaving you with an end sentence of 4years and 5months imprisonment. As for count 1, I sentence you 2 years imprisonment. Your sentences are to be concurrent which means that you will serve a total of 4 years and 5 months imprisonment effective from today.
8. You have 14 days to appeal this decision if you are not happy with it.

DATED at Luganville this 15<sup>th</sup> day of April 2015

BY THE COURT



DUDLEY ARU

Judge