

**PUBLIC PROSECUTOR**

- v -

**TELFER TABI**

*Coram: Lunabek Vincent CJ*

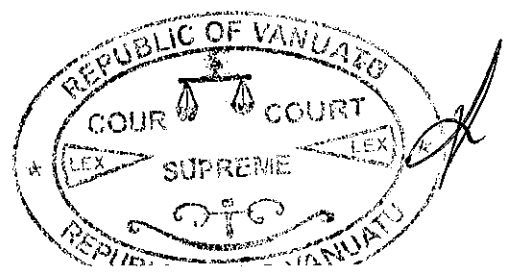
*Counsel: Ms Marie Taiki for Public Prosecutor  
Mr Eric Molbaleh for Defendant*

**SENTENCE**

1. Telfer Tabi this is your sentence. You are charged with one count of acts of Indecency with a young person, contrary to section 98A of the Penal Code Act [Cap 135].
2. On 3<sup>rd</sup> of May 2016, you entered a guilty plea as charged and you were convicted of that offence.
3. You and your lawyer agree with the brief facts provided by the prosecution. The facts are as follow:-

The complainant, Daniel Tabi, lodged an official complaint against you on 19/12/2015 that you committed an act of indecency on the body of the girl victim.

4. The offence occurred sometime in November 2015 at Central Pentecost; the girl victim was 14 years of age. Her date of birth is 20 November 2001. You are now 19 years old. Your date of birth is 12 August 1997.
5. Sometime in November 2015, the girl was walking home from her school when she noticed you were following her. When she continued walking you came up behind her and you pulled her to the side of the road.

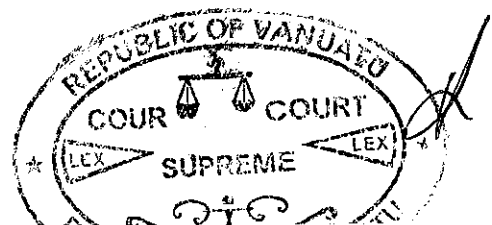


6. She struggled to free herself from you. However, you held her from behind, put your hands around her waist, reached down into her underpants and touched her vagina.
7. She managed to push your hands away and immediately ran home. You were cautioned; you understood your rights and the allegations against. You were aware that what you did was wrong.
9. Section 98A of the Penal Code Act is the prohibiting section, it provides:  
*"A person must not commit an act of indecency upon, or in the presence of another person under the age of 15.*

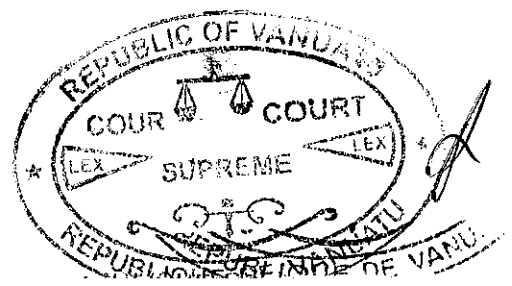
*Penalty: Imprisonment for 10 years."*

10. The maximum penalty for this offence is 10 years imprisonment. The offence of acts of indecency with a young person is a serious offence as reflected by the heavy maximum penalty imposed by Parliament.
11. Sexual offences against young persons in the community are serious offences. Imprisonment is warranted.
12. In Public Prosecutor –v- Gideon [2002] VUCA 7, the Court of Appeal emphasised that:  
*"there is an overwhelming need for the Court on behalf of the community to condemn in the strongest terms any who abuses young people in the community... It is totally wrong for adults to take advantage of their immaturity. It will be in the most extreme of cases that suspension could ever be contemplated in the case of sexual abuse... Men must learn that they cannot obtain sexual gratification at the expense of the weak and the vulnerable. What occurred is a tragedy for all involved. Men who take advantage sexually of young people forfeit the right to remain in the community."*

13. In the present case, the circumstance of the offence is aggravated by the following factors:
  1. The age differential - you are 18 year of age while the girl was 14 years old in class 6.
  2. Breach of trust – you are the uncle to the girl complainant, she looks upon you to protect her but you breach that trust.



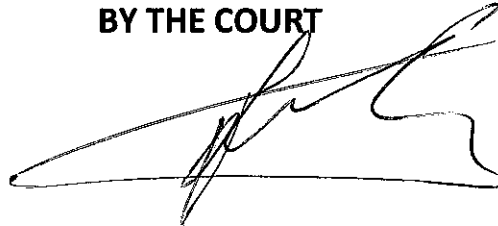
3. You followed the girl, grabbed her, pulled her to a bush.
4. You held onto her tightly despite her struggle to break from your grip.
5. The impact of your offending on the girl – she feels ashamed.
14. You are sentenced to 3 years imprisonment as a starting point inclusive of the aggravating factors.
15. On balance, I take the following mitigating factors into account:
  1. You are a first time offender and you have no previous criminal record or convictions.
  2. You pleaded guilty at the very first time opportunity given to you. You are entitled to 1/3 reduction of the head sentence you receive for your guilty pleas.
  3. You have performed a custom reconciliation by paying a fine of VT25,000 and a buluk to the victim and her family. (your chief sent a letter to confirm this custom reconciliation).
  4. You cooperate with the Police and you admitted the offence to the police.
  5. You are no longer at school. You live with your old parents.
  6. You look after your old parents by working in the gardens to provide food for your parents and yourself.
  7. Your father and mother are old and both are sick. (your mother suffers from eye sight problem and your father suffers from body pain – Medical certificates of both are provided).
16. On balance between the aggravating and the mitigating factors, you head sentence of 3 years is reduced by 1/3 to reflect your guilty plea which is 12 months reduction. You are entitled to another 12 months allowances to reflect the other mitigating factors.
17. You receive an end sentence of 12 months imprisonment.



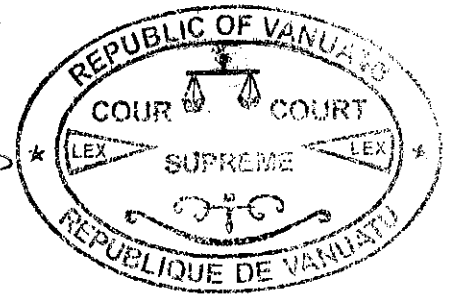
18. I consider to suspend it and I accept to suspend it in the circumstance of your offending for a period of 3 years. In addition, I order you to undertake 80 hours community work.
19. You have 14 days to appeal your sentence if you are unsatisfied with it.

**DATED at Port-Vila this 30<sup>th</sup> day of May 2016**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**



**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**

**ORDER FOR SENTENCE OF COMMUNITY WORK**

(Sections 58F & 58G Penal Code (Amendment) Act No.14 of 2007)

Name: **TELFER TABI**

DOB: **19 YEARS**

Residential location: **WUJUNMEL VILLAGE CENTRAL PENTECOST, PENTECOST ISLAND.**

**At a sitting of the Supreme Court at Port-Vila, Efate this 30<sup>th</sup> day of May 2016, you were sentenced to 12 MONTHS IMPRISONMENT suspended for a period 3 years and in addition, you are ordered to perform 80 hours Community Work.**

<b><u>Case number:</u></b>  CR Case 916 of 2016	<b><u>Offences:</u></b>  • One count of Act of Indecency with a young person, contrary to section 98A of the Penal Code Act [Cap 135].
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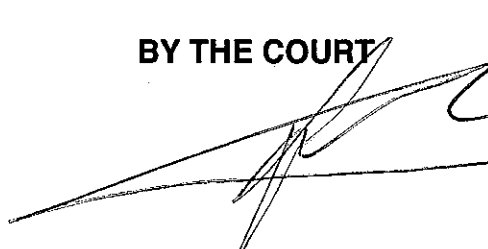
The Penal Code Amendment Act 2006 requires you to:

1. You must report to a Probation Officer as soon as practicable and not later than 72 hours, after sentence is passed.
2. You must report to a Probation Officer as directed at any other time during the sentence for the purpose of monitoring the sentence.
3. You must notify a Probation Officer, within 72 hours, if you move to a new residential location.
4. You must work as directed by the Probation Officer until the total number of community work hours is finished.

Other rules of the Community Work sentence will be explained to you when you meet your Probation Officer

**DATED at Port-Vila this 30<sup>th</sup> day of May 2016**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**

