

**IN THE SUPREME COURT**                      **Criminal**  
**OF THE REPUBLIC OF VANUATU**      **Case No. 17/3062 SC/CRML**  
*(Criminal Jurisdiction)*

**PUBLIC PROSECUTOR**

**V**

**MADIAS JONAH**

*Date of Sentence:*      *7<sup>th</sup> day of December, 2017 at 2:00 PM*

*Before:*                      *Justice David Chetwynd*

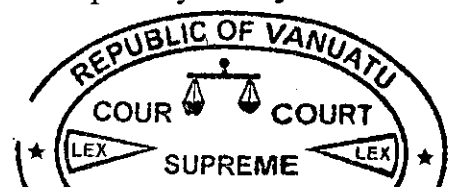
*Counsel:*                      *Ms Betina Ngwele for Public Prosecutor*  
   *Ms Kylie Bakeo for Defendant*

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**SENTENCE**

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1. The defendant Madias Jonah has plead guilty to one count of unlawful sexual intercourse. The victim of this offence was 14 years old. The defendant has admitted having a sexual relationship with the young girl over a period of two years. He was 19 years old at the time. The sexual relationship was consensual in the sense that the young girl was not forced to have sexual intercourse with the defendant.
2. The defendant has entered a plea to the one charge but he accepts that the relationship involved more than one occasion when he had sexual intercourse with the young victim.
3. The offences are said to have occurred before 24<sup>th</sup> February 2017. That is the day the amendments to certain sentences was amended by the Penal Code (Amendment) Act of 2016. As such the charge accepted by the defendant attracts a maximum penalty of 5 years.



Had the defendant committed the offences after that date he would have faced a maximum sentence of 15 years.

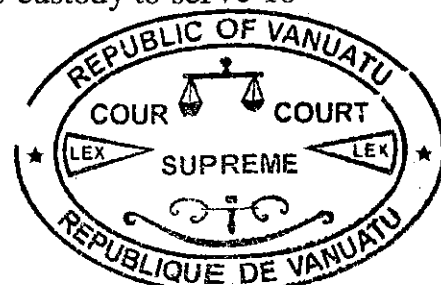
4. The defendant and the victim have now married and are the parents of a 3 year old boy. I must confess I do not understand the maths of their having a 3 year old child.
5. The Court faced a similar situation in the case of Macreveth<sup>1</sup>.

The Judge in that case cited two previous cases PP v. Ben Kaloris and PP v. Frederick Kaltarikia. In Macreveth and this case there was clearly a loving relationship. In the two earlier cases there appeared to be more of a consensual relationship rather than forced sexual intercourse. In all the cases a sentence of imprisonment was imposed but the sentence was suspended.

6. There are no particular aggravating features in this case. The starting point is 2 years. The defendant is of good character and has engaged in custom reconciliation ceremonies with the family of the girl. He has accepted his responsibilities to her and the child he has fathered. The 2 year sentence can be reduced to 18 months.
7. The final sentence of 18 months will be suspended for a period of two years. The defendant will be supervised for 1 year.
8. As I explained to the defendant in Court, if he does not commit any further offences in the period of two years from today he will not serve any time in prison. If he commits any other offence within the 2 years he is liable to be taken into custody to serve 18

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<sup>1</sup> PP v Macreveth [2008] VUSC 4; Criminal Case 105 of 2007 (28/02/08)



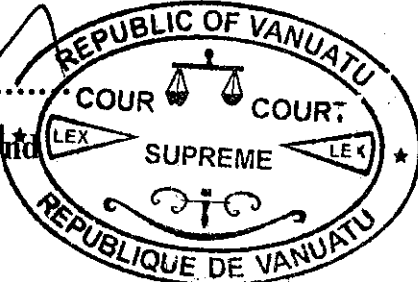
months for this offence and any more time imposed for the new offence.

- 9. If the defendant is unhappy with this sentence he can appeal it. He will have 14 days from the time he receives a copy of these reasons via his counsel to do so.

**DATED at Port Vila this 13<sup>th</sup> day of December, 2017.**

**BY THE COURT**

*[Handwritten Signature]*  
.....  
**David Chetwynd**  
**Judge**



The seal of the Supreme Court of Vanuatu is circular. The outer ring contains the text 'REPUBLIC OF VANUATU' at the top and 'REPUBLIQUE DE VANUATU' at the bottom. Inside the ring, the words 'COUR' and 'COURT' are positioned on either side of a central scale of justice. Below the scales, the word 'SUPREME' is written in a larger font. Two small triangles containing the word 'LEX' are placed on either side of 'SUPREME'. At the bottom of the inner circle, there is a decorative flourish.