

PUBLIC PROSECUTOR VS. JACOB ROBERT

Before: Justice Oliver A. Saksak

Counsel: Michelline Tasso for the Public Prosecutor
Bryan Livo for the Defendant

Date of Plea: 6th April 2017

Date of Sentence: 15th May 2017

SENTENCE

1. Jacob Robert, you are for sentence today for having pleaded guilty on 6th April 2017 to the following charges:-

(a) Count 1 and Count 2 Sexual Intercourse without consent – Sections 89 A, 90 and 91 of the Penal Code Act CAP 135 (the Act); and

(b) Count 3, Act of Indecency with a young person – Section 98 A of the Act.

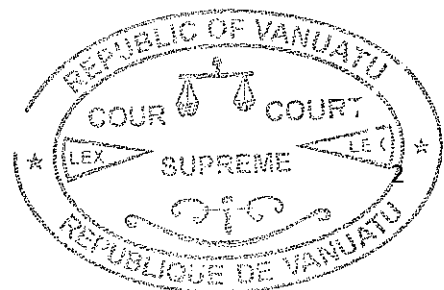
2. I remind you that these are very serious sexual offences which carry life imprisonment for the charges in Counts 1 and 2, and 10 years imprisonment for the offence in Count 3.

3. The facts of your offendings are that on or about the month of December 2016 at Fresh Water 1 Area, Port Vila you committed sexual intercourse with Mauvalyne Kalo twice by firstly licking her vagina (Count 1) and secondly by inserting your finger into her vagina (Count 2). Further you committed an act of indecency on the victim by placing your penis onto her vagina. This happened at the same time. Your victim is only 7 years old. Prior to you committing those offences you had asked the girl to go into the room to check on her sister. You followed her there, made her sleep on the bed, removed her clothes, kissed her on her mouth and placed your penis on her vagina. The next day you took her again into the house, undressed her and licked her vagina. You then pushed your finger into her vagina. The victim and her mother



reported you to the Police on 1st February 2017. When the Police questioned you about these offences you admitted on 14th February 2017 that you had done these things to the victim. You are 62 years old. You were living with the victim's relatives at the time in the house of her grandparents. And you have accepted these facts.

4. Your actions of licking of the girl's vagina and inserting your finger into her vagina fall squarely within the meanings of sexual intercourse as defined in Section 89 A (a) and (d) of the Act.
5. Your actions must be strongly condemned by the Court. Children must be protected from men who take advantage of their age and commit sexual offences that are prohibited specifically by law. That is well established law in PP v. Gideon [2002] VUCA 7 and PP v. Scott [2002] VUCA 29.
6. From these case authorities, it is clear that the only appropriate sentence for you is to be a custodial sentence. This is to –
 - (a) Mark the seriousness of your offendings;
 - (b) Mark public condemnation of your actions;
 - (c) Deter you and other like included men;
 - (d) Punish you appropriately; and
 - (e) Protect young children, the weak and vulnerable members of the society.
7. Taking all the facts of the case including the aggravating factors, I consider your offendings fall on the mid to a high end of the scale, and I agree with the Prosecution that the starting point of 9 years imprisonment is appropriate. There will however be no further uplift.
8. You are therefore sentenced as follows:-
 - (a) For sexual intercourse without consent – Count 1: 9 years imprisonment as the starting point.



- (b) For sexual intercourse without consent – Count 2: 9 years imprisonment but made concurrent with the 9 years imprisonment for the offence in Count 1.
- (c) For act of indecency with young person – Count 3: 5 years imprisonment as the starting point but made concurrent with the 9 years imprisonment for Counts 1 and 2.
9. In effect, you are sentenced to a total of 9 years imprisonment as a concurrent sentence.
10. I now allow deductions due to your mitigating factors. First I allow 1/3 reduction leaving the balance of 6 years imprisonment. I do not see any other factors that warrant any further reduction. Therefore your end Sentence shall be 6 years imprisonment. And there are no exceptional circumstances to warrant any suspension of sentence.
11. I order that your Sentence of 6 years be backdated to 16th February 2017 when you were first remanded in custody.
12. That is the Sentence of the Court. You may wish to appeal against this sentence. If so, you should lodge an appeal within 14 days from the date of this sentence. However, you must begin to serve your term of imprisonment with immediate effect.

DATED at Port Vila this 15th day of May, 2017.

BY THE COURT

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OLIVER A. SAKSAK

Judge

