

PUBLIC PROSECUTOR

v

TEMBES QUARA

Date: 24 May 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr D. Boe
Defendant – Mr R. Willie

SENTENCE

A. Introduction

1. Mr Quara pleaded guilty to one charge of unlawful sexual intercourse with a child under 13 years of age.

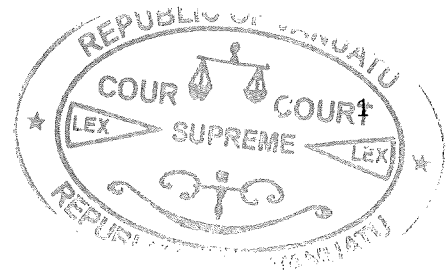
B. Facts

2. The complainant JM is 6 years old. Mr Quara is related to her as grandfather.
3. On 14 October 2020, Mr Quara took JM with him to their coconut plantation. At the plantation, Mr Quara told JM to take off her clothes and lie down on the ground. JM did so. Mr Quara then sucked and licked JM's genitals. When they returned home JM told one of her relatives what had happened.
4. Mr Quara made full admissions to the Police.

C. Sentence Start Point and Personal Factors

5. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
6. The maximum sentence provided in subsection 97(1) of the *Penal Code* [CAP. 135] is life imprisonment.
7. There are no mitigating factors related to the offending. The offending is aggravated by:

- The breach of trust involved;



- The 47-year age differential;
 - The effect upon JM including her loss of innocence; and
 - The offending was planned. Mr Quara took JM out of her house and took her into the plantation where no one was around and committed the offending.
8. The factors set out above require a sentence start point of 6 years imprisonment. Mr Quara is currently on parole for a sentence of imprisonment for sexual offending. An uplift of 6 months imprisonment is added to the sentence start point.
9. I deduct 25% from the sentence for Mr Quara's early guilty plea.
10. Mr Quara is 63 years old. He is a recidivist offender. He has offended while on parole. Mr Quara is stated to have performed a custom reconciliation ceremony with the victim and her mother involving a VT22,000 fine but this could not be confirmed by the pre-sentence report writer. I reduce the sentence by 1 month for Mr Quara's personal factors.

D. End Sentence

11. Mr Quara is sentenced to 4 years 9 months imprisonment. The sentence is back-dated to run from 11 May 2021 when Mr Quara was taken into custody.
12. The sentence is imposed to denounce such criminal conduct against young girls and against the values of society, to hold Mr Quara accountable for his criminal conduct, to deter Mr Quara and others from such offending and to protect the community.
13. The end sentence will not be suspended. An immediate custodial sentence must be imposed for this serious sexual offending against a very young child: *Public Prosecutor v Gideon* [2002] VUCA 7.
14. Mr Quara has 14 days to appeal the sentence.
15. All details leading to the identification of JM are permanently suppressed.

DATED at Luganville this 24th day of May 2021
BY THE COURT


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Viran Molisa Trief
Judge

