

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal
Case No. 21/1213 SC/CRML

BETWEEN: Public Prosecutor

AND: Frederick Lewawa
Defendant

Coram: *Justice Aru*
Counsel: *Ms. B. Ngwele for the Public Prosecutor*
Mrs. P. Malites for the Defendant

SENTENCE

Introduction

1. Mr Frederick Lewawa pleaded guilty to three (3) counts of acts of indecency with a young person.

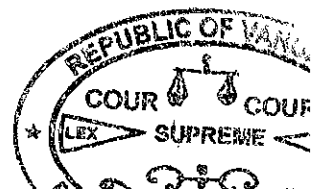
The facts

Count 1

2. The victim/complainant lives with her father the defendant who is 53 years old and her younger brother. The offending begun in 2018 when the victim was 9 years old. She could not recall the exact date. On the night in question she and her brother were asleep when the defendant came home after drinking. He called the victim into his room and rubbed his hand against her vagina through her pants. He told her not to tell anyone and that it should be their secret. After this first incident the defendant would do the same thing to her every time he came home after drinking kava.

Count 2

3. In 2020 the victim was 11 years old when the defendant took her to a spring water at the kawenu area. It was around lunch time and they went swimming. During the swim the defendant pushed his hands into the victim's pants and touched her vagina. The defendant had a knife with him. After touching the victim the defendant told her not to tell anyone.



Count 3

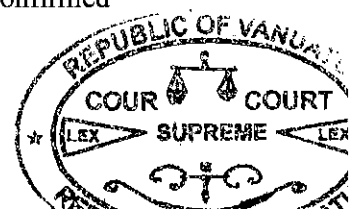
4. Sometime this year 2021 the victim now 12 years old and her brother were already asleep when the defendant came home after drinking kava. He called the victim into his room then told her to touch his penis. She did so for some then the defendant told her to lie on her belly and he rubbed his penis against the victim's vagina and anus. He ejaculated onto the victim's legs and the mat she was lying on.
5. The defendant admitted the offending to the Police after his arrest. When asked about the number of times he touched the victim he replied "*many times mi no save talem se hamas time*".

Starting point

6. The offence of acts of indecency with a young person is punishable by a maximum penalty of 10 years imprisonment.
7. The offending is aggravated by the following factors:-
 - There is an age disparity
 - There is breach of trust
 - The offending was repeated; and
 - The offending occurred in a home where the victim was meant to be protected and to feel safe.
8. There are no mitigating factors of the offending.
9. The overall starting point of sentence which is to be concurrent is 6 years imprisonment.

Personal factors

10. The defendant pleaded guilty to all the charges at the first available opportunity. For his guilty plea the sentence will be discounted by 25 percent.
11. A Pre-Sentence Report was filed as directed. It provides the following details about the defendant. He is from Imaki village on Tanna and he is not a first time offender. This is his second offending. The defendant began his primary education up to class 6 then left due to financial difficulties. He has skills in farming but now works as a security/gardener at an expatriate's residence. The defendant lives in a defacto relationship with 6 children and he is the breadwinner. He told the probation officer that his partner is mentally impaired and lives with her relatives. He earns his income from three flats that he leases out to tenants. He drinks alcohol every week as confirmed



by his brother who also says that defendant is on good terms with his family and community.

12. Although the defendant regrets his offending, no custom reconciliation has been done as yet although he is willing to perform one to the victim.

13. The sentence is further reduced by 5 months for the defendant's personal factors.

End sentence

14. The end sentence is therefore 4 years imprisonment to be concurrent effective from 8 March 2021 when he was remanded into custody.

15. The defendant has 14 days to appeal if he is not happy with the decision.

DATED this 22nd day of June, 2021
BY THE COURT

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D. Aru
Judge

