

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

Criminal
Case No. 21/1555 SC/CRML

PUBLIC PROSECUTOR
v
JEAN FRANCOIS MOLGOS

Date: 23 July 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr C. Shem
Defendant – Mr F. Tasso

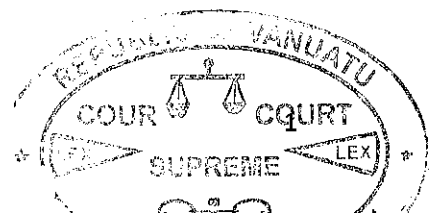
SENTENCE

A. Introduction

1. Mr Molgos pleaded guilty to two charges of act of indecency without consent (Counts 1 and 2) and one charge of domestic violence (Count 3). He accepted the summary of facts and was accordingly convicted on his own pleas and the admitted facts.

B. Facts

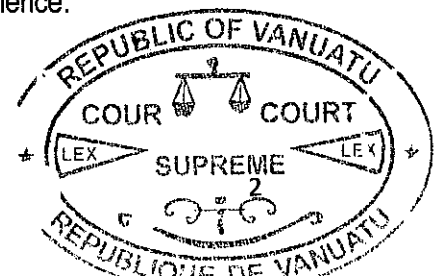
1. Mr Molgos is married to the complainant ET's mother's sister. ET is 17 years old. In 2019, she moved from the Banks islands to attend school in Port Vila. She lived with Mr Molgos and his wife and their children.
2. ET and Mr Molgos' daughter slept in a room together. On occasions she would wake to find Mr Molgos' hand touching her stomach. He said he was just checking her. She thought it was the behaviour of a father checking on his children.
3. On 12 February 2021, at around midnight, Mr Molgos entered ET's bedroom. She was asleep but felt someone's hands touching her buttock and breast (Count 1). When she opened her eyes, she saw it was Mr Molgos.
4. Mr Molgos told ET to follow him outside. She did. Mr Molgos went to the toilet, sat down and told her to remove her bra as it was hot and would decrease the size of her breasts. While he was saying that, he reached around and unhooked her bra. He told her to remove the bra which she did. He then reached under and squeezed her left breast for some time saying, "When you sleep, don't wear a bra because it makes your breasts smaller" (Count 2). ET felt very scared and ashamed.



5. They left the toilet but then Mr Molgos pulled ET by the hand into the changing room. He asked her if she had touched a man's penis before and then asked her to touch his. She said, "No." She was very scared. Mr Molgos then allowed her to go back to her room but then called her into the sitting room. His daughter was asleep in the sitting room. Mr Molgos apologised to ET and told her not to tell anyone. Two days later ET ran away from the house with the aid of a friend who gave her VT200 bus fare. She made her report to the Police the next day.
6. Many times between 2019 and 2021, Mr Molgos harassed ET by calling her offensive names, "man bush blong Banks", "shut hed", "local" and "yu olsem ol uncle blo yu" in front of his children and other people causing her to feel bad and ashamed (Count 3).
7. Mr Molgos made full admissions to the Police.

C. Sentence Start Point and Personal Factors

8. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
9. The maximum sentences provided are:
 - a. Act of indecency without consent – 7 years imprisonment; and
 - b. Domestic violence – 5 years imprisonment or VT100,000 fine or both.
10. The offending is aggravated by:
 - a. Breach of trust;
 - b. 28-year age differential;
 - c. Planning and premeditation;
 - d. The escalating behaviour against the victim and grooming over time;
 - e. Skin to skin contact;
 - f. Telling the victim not to tell anyone about the offending;
 - g. Offending occurred at night and in ET's bedroom where she was entitled to feel and to be safe and secure; and
 - h. The harrowing effects on ET of fear, feeling unsafe at home and being made to feel humiliated and ashamed over a two-year period.
11. There are no mitigating aspects of the offending.
12. The factors set out above require a sentence start point of 36 months imprisonment for the acts of indecency and 20 months imprisonment for the domestic violence.



13. Mr Molgos pleaded guilty at the first opportunity. I deduct 33% for the early guilty plea.
14. Mr Molgos is 45 years old. He is married and has three children aged 10-17 years old. He is a Pastor and also works as a maintenance man for a Chinese businessman. Mr Molgos has no previous convictions although that is of little significance in mitigating a sentence in cases of a sexual nature. Mr Molgos' attempts to perform a custom reconciliation ceremony with ET were refused; he remains willing to do so. I deduct 2 months for Mr Molgos' personal factors.

D. End Sentence

15. Taking all of those matters into account, the end sentences imposed concurrently are:
- a. Acts of indecency without consent (Counts 1 and 2) – 22 months imprisonment; and
 - b. Domestic violence (Count 3) – 12 months imprisonment.
16. The sentences are back-dated to run from 22 July 2021 as Mr Molgos spent 1 day in custody.
17. The sentences are imposed to denounce the offending, to deter Mr Molgos and others, to hold Mr Molgos accountable for his criminal conduct and to protect the community.
18. It would be entirely wrong to suspend this sentence in whole. However, I am prepared to suspend part of the sentence in view of Mr Molgos' family responsibilities including 3 dependent children, his employment history, strong community support and prospects of rehabilitation. Mr Molgos is to serve 12 months of his imprisonment sentences. I suspend the remaining 10 months of his imprisonment sentence (Counts 1 and 2) for 2 years. Mr Molgos is warned that if he offends again within the next 2 years, he will need to serve the remaining 10 months of his sentence in addition to any other penalty that may be imposed on him for the further offending
19. Mr Molgos has 14 days to appeal the sentence.
20. All details leading to the identification of ET are permanently suppressed.

DATED at Port Vila this 23rd day of July 2021

BY THE COURT

UMTrief
Justice Viran Molisa Trief

