

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

Criminal  
Case No. 21/2510 SC/CRML

**BETWEEN:** Public Prosecutor

**AND:** Mavun Ofuofui  
Defendant

*Date:* 15<sup>th</sup> September 2021  
*By:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr D. Boe for the Public Prosecutor  
Mr R. Willie for the Defendant

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**SENTENCE**

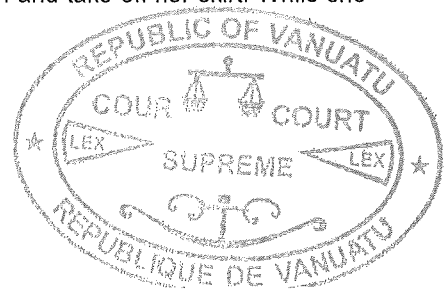
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A. Introduction

1. Mr Ofuofui pleaded guilty to 2 charges of incest.

B. Facts

2. NMP was born on 12 December 2006. Mr Ofuofui is her biological father.
3. Between April and December 2020 they resided at Ipayato area, Santo. NMP was then only 13 years old.
4. At some stage after Cyclone Harold had struck in April 2020, Mr Ofuofui instructed, NMP to follow him to the Navaka River. When they arrived he told her he wanted to have sex with her. NMP cried and refused him as he was her father. He proceeded to remove her skirt and although she tried to push him away he penetrated her vagina with his penis. When he had finished, Mr Ofuofui instructed NMP to not tell her mother or he would beat her.
5. On numerous other occasions later in 2020 Mr Ofuofui instructed NMP to follow him to the garden at Vejiotch. There he would tell her that he wanted to have sex with her and despite her refusal and tears he would go ahead and push her into a bush and take off her skirt. While she was on the ground he would push his penis into her vagina.



6. NMP wanted to report her father but she was afraid of his threats. Instead, she ran away from home and started to live with her uncle Nerry. She told him what had been occurring which led to a report to the police.

7. When interviewed by the police, Mr Ofuofui denied all wrong-doing.

C. Sentence Start Point

8. The sentence start point is to be assessed by having regards to the maximum sentence available and factoring in the aggravating and mitigating aspects of the offending.

9. In this case the maximum penalty for the offending is life imprisonment.

10. There are no mitigating factors to the offending. However there aggravating factors including:

- breach of trust to his wife and other family members;
- the threat not to tell, which caused a young girl to run away from her home;
- the lack of protection used, exposing the young girl to unwanted pregnancy and sexually transmitted disease;
- the controlling aspects of the offending;
- the degree of planning and pre-meditation involved; and
- the repeat nature of the offending.

11. The sentence start point I adopt is 14 years imprisonment, taking all the offending into account on a concurrent basis.

D. Personal factors

12. Mr Ofuofui has pleaded guilty at the first available opportunity. His pleas have resulted in NMP not having to give evidence against him. Accordingly the sentence start point is reduced by 33% to take these matters into account.

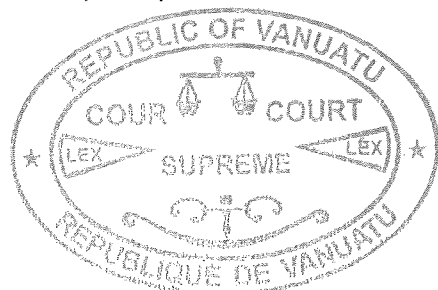
13. Mr Ofuofui is now 34 years old, married with 3 children to support. He is a farmer by occupation.

14. He has no previous convictions.

15. He has no insight into the offending, alleging that NMP consented to the sexual intercourse with her father, and further alleging that because she had had sexual intercourse with another male it was acceptable for him to follow suit. I do not accept Mr Ofuofui's claimed remorse has any credibility.

16. There has not been a custom reconciliation, although Mr Ofuofui claimed to be willing to participate in that.

17. For Mr Ofuofui's personal factors I further reduce the sentence start point by 5 months.



E. End Sentence

18. The end sentence I impose on both charges concurrently is 9 years 10 months imprisonment.
19. The sentence is back-dated to commence as from 15 July 2021 to take into account time already served.
20. There will be no suspension of sentence: *Gideon v. PP [2002] VUCA 7*.
21. All details leading to identification of NMP are permanently suppressed.
22. Mr Ofuofui has 14 days to appeal.

Dated at Luganville, this 15<sup>th</sup> day of September 2021  
BY THE COURT

  
Justice G.A. Andrée Wiltens

