

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

Criminal  
Case No. 21/2511 SC/CRML

**BETWEEN:** Public Prosecutor

**AND:** Joseph Sartay  
Defendant

*Date:* 16<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

---

**SENTENCE**

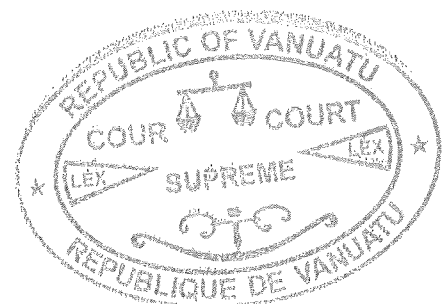
---

A. Introduction

1. Mr Sartay pleaded guilty to acts of indecency with a young person (x2).

B. Facts

2. Mr Sartay is step-father to SA. He, with SA's mother, has cared for SA since she was 3 years old.
3. In January 2014 to December 2015, when SA was 10 to 12 years old, she would return home after school to find Mr Sartay finishing taking a shower. He would then remove his towel from his waist and display his penis to SA. This occurred on numerous occasions.
4. As well, at around the same time, when SA had been swimming and had gone to get changed, Mr Sartay would approach her and touch her anus.
5. SA maintains this offending continued until 2018. In 2021, SA told her school Principal about what Mr Sartay had done. When the Principal interviewed SA's mother, it became obvious that SA's mother already knew that this was occurring. She told the Principal Mr Sartay had promised her that he would cease.



6. When the police interviewed Mr Sartay, he admitted this offending.

C. Sentence Start Point

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

8. The maximum sentence for this offending is 10 years imprisonment.

9. There are no mitigating factors to the offending. There are however several aggravating features, which include:

- the breach of trust;
- the prolonged continuation of the offending;
- the repeated nature of the offending;
- the fact the offending occurred at SA's home where she should feel safe;
- the effects on SA – she has left home as a result of this offending; and
- the skin-on-skin aspect of the touching.

10. I adopt a sentence start point for the offending, on a concurrent basis, taking all the offending into account, of 2 years imprisonment. That takes into account the fact that the offending took place some time ago.

D. Personal factors

11. Mr Sartay has pleaded guilty to the charges at the first available opportunity. Given that his wife was aware of the offending, the pleas were really Mr Sartay's only option. However, it has resulted in SA not having to give evidence. For these reasons I reduce the sentence start point by 33%.

12. Mr Sartay is now 40 years old, married with 2 children of his own and a step-child to support.

13. Mr Sartay is a farmer by occupation. He is the sole bread-winner for his family. He maintains he participated in a custom reconciliation ceremony with SA involving an apology and payment of VT 2,000.

14. He has no previous convictions.

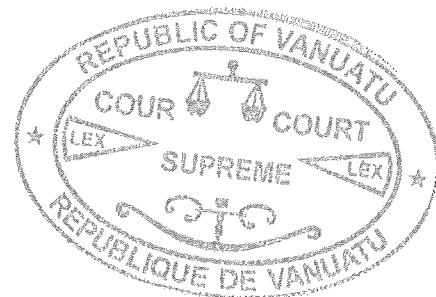
15. For his personal factors, Mr Sartay's sentence start point is further reduced by 6 months.

E. End Sentence

16. The end sentence I impose is 10 months imprisonment on each charge concurrently. The sentence is back-dated to commence on 15 July 2021 to take into account time already served.


17. There will be no suspension of sentence: *Gideon v. PP [2002] VUCA 7*.

18. All details leading to identification of SA are permanently suppressed.



19. Mr Sartay has 14 days to appeal.

Dated at Luganville, this 16<sup>th</sup> day of September 2021  
BY THE COURT

  
.....  
Justice G.A. Andree Wilfens

