

PUBLIC PROSECUTOR

v

WILLIE PAUL SAKARI

Date: 6 December 2022
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr S. Blessing
Defendant – Mr J. Kausiama

SENTENCE

A. Introduction

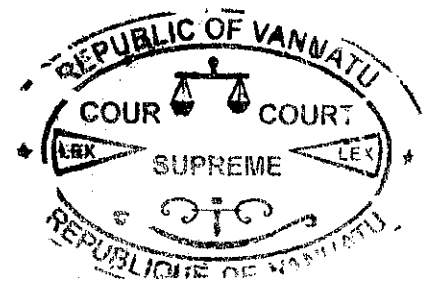
1. Mr Sakari pleaded guilty to two charges of indecency with a young person.

B. Facts

2. At the time of the offending, the complainant AT (name suppressed) was under 15 years old. Mr Sakari and the complainant are related.
3. At about 4am on 29 May 2022, Mr Sakari entered the complainant's grandmother's house at Siviri village on North Efate where the complainant and her sister were sleeping. It was still dark. Mr Sakari touched and rubbed AT's vagina with his hands. She wanted to scream but he blocked her mouth with his hands (Charge 1).
4. Mr Sakari then touched AT's breast. He stopped when AT's younger sister shone a flash light at him and both she and AT saw him. He told her not to shine the light and to turn it off then he fled (Charge 2).

C. Sentence Start Point

5. The sentence start point is to be determined by looking at the maximum sentence available for the offending, and then factoring in the aggravating and mitigating aspects of the offending.
6. The maximum sentence provided in s. 98A of the *Penal Code* [CAP. 135] for indecent act upon, or in the presence of, another person under the age of 15 is 10 years imprisonment.



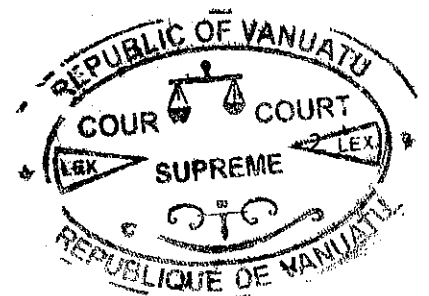
7. There are no mitigating factors related to the offending.
8. However, the offending is aggravated by the following:
 - Breach of trust;
 - 9-year age differential;
 - Premeditation – the offending was calculated and took place when few others were in the vicinity;
 - The offending occurred in the home environment, where the complainant should have been able to feel safe and protected;
 - The skin-to-skin touching of the complainant's vagina; and
 - The effects on the complainant who was young and impressionable and should not have had to endure such conduct aimed towards her.
9. Given the factors set out above, I adopt a global sentence start point of 3 years imprisonment.
10. Mr Sakari has a previous conviction, also for indecency with a young person. A 3-month uplift is added to the sentence start point.

D. Personal Factors

11. Mr Sakari pleaded guilty at the first opportunity to. A third is deducted for his prompt guilty pleas as it has saved the Court's time and spared the complainant the ordeal of giving evidence in front of a group of strangers.
12. Mr Sakari is 24 years old. He is single.
13. He has been ostracized by his family. He is supported by his pastor. He helps with the pastor's family's gardening and household chores.
14. No custom reconciliation ceremony has been performed as this was declined by AT and her family.
15. A month is deducted from the sentence start point for Mr Sakari's personal factors.
16. Mr Sakari served the period 6 June 2022 to 18 August 2022 in custody – effectively 5 months imprisonment. A further 5 months is deducted from the sentence start point.

E. End Sentence

17. The end sentence imposed concurrently on both charges is 1 year 8 months imprisonment.



18. The sentence is imposed to denounce such criminal conduct against young girls and against the values of society, to deter Mr Sakari and others from such offending and to hold Mr Sakari accountable for his criminal conduct.
19. The end sentence will not be suspended. No exceptional circumstances are shown to warrant suspension. This was accepted by Mrs Malites.
20. This sentence of imprisonment may not be enforced until the time of appeal against sentence has expired or Mr Sakari earlier elects to begin serving his sentence: s. 50 of the *Penal Code*.
21. Mr Sakari has 14 days to appeal the sentence.
22. All details leading to the identification of AT are permanently suppressed.

**DATED at Port Vila this 6th day of December 2022
BY THE COURT**

VM Trief
Justice Viran Molisa Trief

