

PUBLIC PROSECUTOR

v

TARCISIUS ALGUET

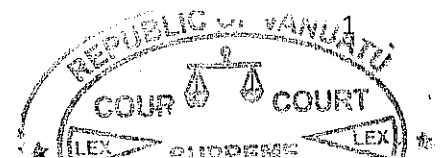
Date: 2 February 2024  
Before: Justice V.M. Trief  
Counsel: Public Prosecutor – Mr R.G. Simeon  
Defendant – Mr L. Tevi

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**SENTENCE**

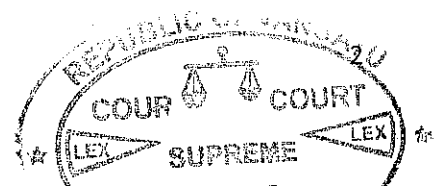
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1. The Defendant Tarcisius Alguet pleaded guilty to two charges of act of indecency with a young person (under 15 years old) contrary to s. 98A of the *Penal Code* [CAP. 135].
2. At the time of the offending, the complainant AB was 12 years old.
3. In October 2019, AB, her mother and brother (Australian nationals) travelled to Vanuatu and along with a friend of her mother stayed at "The little paradise of Port Olry" tourist lodge at Port Olry on Santo from 2-6 October 2019. Mr Alguet was the manager of the tourist lodge.
4. During their last night at the lodge, AB and her family invited Mr Alguet to join them at a campfire. Mr Alguet sat close to AB and put his arms around her. She felt uncomfortable and sat up. As she did so, Mr Alguet moved his left hand and touched her vagina from outside her clothing. She immediately removed his hand and went to sit close to her mother (Charge 1).
5. The next day, AB was alone in their cabin whilst her mother took her brother to the toilet. Mr Alguet entered the room, put his arms around her waist and lifted her up. He told her to kiss him. She refused and turned her head away so he ended up kissing her



cheeks instead. He then put her down and tried to pull her breasts out from inside her dress. She pushed his hands away and said, "No." AB's mother returned to the room and Mr Alguet left (Charge 2).

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 however it is aggravated by the following:
  - Breach of trust – the defendant was the manager of the tourist lodge and the complainant was a guest at the time of the offending;
  - 40-year age differential;
  - It was planned – the defendant took the opportunity on the second occasion of the complainant being alone to commit the offending;
  - Repeated offending;
  - The complainant was vulnerable;
  - The offending occurred at the defendant's premises where the complainant should have been able to feel safe and protected; and
  - The physical and mental effects on the complainant.
8. Given the factors set out above, I adopt a global sentence start point of 3 years imprisonment.
9. One third is deducted from the sentence start point for Mr Alguet's prompt guilty pleas which have saved time and the need for the complainant to give evidence.
10. Mr Alguet is 53 years old. He separated from his *de facto* partner in 2015. He has four children. Two are in secondary school and two in primary school. He is a Year 10 leaver. He continues to operate his tourist lodge business and plans to expand it. He has no previous convictions. He has not performed a custom reconciliation ceremony with the complainant and her family as they live in Australia.
11. The pre-sentence report writer stated that Mr Alguet denied that he touched the complainant's vagina or that he tried to kiss her, but that he only touched her stomach. Counsel Mr Tevi was put in a difficult position and unable to file sentencing submissions. I am informed by Mr Alguet today that there was a misunderstanding in communicating with the pre-sentence report writer; that he accepts all of the admitted facts. Mr Alguet has taken responsibility for his offending.
12. Three months are deducted from the sentence start point for Mr Alguet's personal factors.



13. The end sentence imposed concurrently is 1 year 9 months imprisonment (Charges 1 and 2).
14. The sentences are imposed to denounce such criminal conduct against young girls and against the values of society, to hold Mr Alguet accountable for his criminal conduct, and to deter Mr Alguet and others from such offending.
15. The Court has a discretion under s. 57 of the *Penal Code* to suspend all or part of the sentence where it is not appropriate to make an offender suffer immediate imprisonment "... (i) in view of the circumstances; and (ii) in particular the nature of the crime; and (iii) the character of the offender."
16. The seriousness of the offending counts against suspension of the sentences. However, in view of Mr Alguet's family responsibilities, his prior clean record and prospects for rehabilitation, I consider that it is not appropriate to make Mr Alguet suffer immediate imprisonment. Accordingly, the sentences are suspended for 2 years on the condition that Mr Alguet commits no further offence within that period. Mr Alguet is warned that if he is convicted of any offence in the next 2 years, that he will be taken into custody and serve his sentences of imprisonment as well as the penalty imposed for the further offending.
17. In addition, Mr Alguet is sentenced to complete 100 hours of community work.
18. Mr Alguet has 14 days to appeal the sentence.
19. All details leading to the identification of AB are permanently suppressed.

**DATED at Luganville this 2<sup>nd</sup> day of February 2024  
BY THE COURT**

  
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Justice Viran Molisa Trief

