

BETWEEN: PUBLIC PROSECUTOR

AND: JOHN ONIS
Defendant

Date of Trial: 22nd February 2024

Date of Verdict 22nd February 2024

Before: Justice Oliver A Saksak

Counsel: Ms Marie Meltebury for Public Prosecutor
Mr Roger Tevi for Defendant

VERDICT

1. The defendant was initially charged with 7 counts of
2. On 11th October 2023 the charge of sexual intercourse without consent was withdrawn before Trief J. the defendant entered not guilty pleas in relation to the remaining 6 counts.
3. He maintained his pleas today and Prosecution called two witnesses to give evidence namely the complainant and victim and Marie Damasing.

The Law

4. Section 98A states-

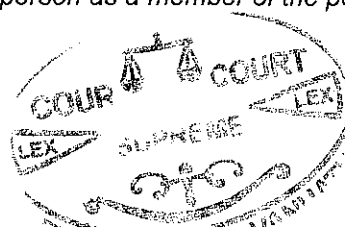
*“Act of indecency with a young person
A person must not commit an act of indecency upon, or in the presence of another person
under the age of 15
Penalty: Imprisonment for 10 years”*

5. Section 96 (1)(b) states-

96. Sexual intercourse with child under care or protection

(1) A person must not have or attempt to have sexual intercourse with any child, not being the person's spouse, who is under the age of 18 years and who –

- (a) being the person's stepchild or foster child, is at the time of the intercourse or attempted intercourse living with the person as a member of the person's family; or

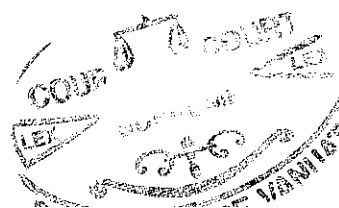


(b) *not being the person's stepchild or foster child, and not being a person living with him as the person's spouse, is at the time of the intercourse or attempted intercourse living with the person as a member of the person's family and is under the person's care or protection.*

Penalty: Imprisonment for 10 years.

(2) *It is no defence to a charge under this section that the child consented.*

6. In relation to the indecency charge in Count 1 Prosecution had to prove beyond reasonable doubt that the defendant committed acts of indecency with the complainant who was 14 years of age.
7. The complainant gave evidence that in 2018 she was 14 years old and attending the Mission school at Lamap. She said it started when the defendant approached her in the house, put his hands around her body and hugged her. He would touched her breasts and vagina many times and she would struggle and tried to resist his actions.
8. In relation to the sexual intercourse charges in 2023 she said it started on 4th July 2023 when the defendant forcibly had sexual intercourse with her. She said it happened again on 9th July 2023, on 29th July 2023 and finally on 10th August 2023. On each of those occasions the defendant initiated the actions of approaching her at her grandmother or grandfather's house, touching her and removing her clothes and having sex with her to the point of ejaculation. She testified about a time when the defendant posted to her a pornographic video but which she saw and deleted.
9. Marie Damasing told the Court that she noticed physical changes on the complainant's face and body and suspected something was happening. She asked to look into her phone and saw pornographic videos. When she asked her about them, the complainant said it was the defendant who had posted them to her. She then cried and told her what the defendant had done to her from 2018 and into 2023.
10. The defendant denied the indecency charge and the five intercourse charges. He however admitted to having sex with the complainant but only once on 19th July 2023. He denied all the other charges.
11. The defendant having made the admission to one only charge, opted to remain silent and not give any evidence.



12. The defendant had no evidence consistent with innocence.
13. The complainant's evidence was consistent. She remembered well what happened to her in 2018 and she told the Court about the defendant's actions.
14. Her age was not in issue and the fact that she was a child under care and protection was not in issue.
15. I find the charge against the defendant of acts of indecency in Count 1 proved beyond reasonable doubt. I therefore return the verdict of guilty.
16. In relation to the 5 charges of sexual intercourse with a child under care or protection, against the complainant's evidence was consistent. She said it happened 4 times on 7th, 9th, 29th July and 10 August 2023 as the final time. I had no reason to disbelief her evidence. She told the Court about a pornographic video she received from the defendant. That is consistent with the evidence of Marie which although did not relate to the sexual intercourse charges, it was the root cause of the problem. It was due to those pictures that facilitated the actions of the defendant to intrude into his young girl's life to exploit her and take advantage of her.
17. Again I find no evidence consistent with the defendant's innocence in respect to the 4 charges of sexual intercourse which he denied committing.
18. I find the defendant guilty of all 5 charges of sexual intercourse laid against him in Counts 2, 3, 5, 6 and 7. Accordingly I return the verdicts of guilty against him on all those 5 counts.
19. I convict him accordingly on all those 6 counts.

**DATED at Lakatoro this 22nd day of February 2024
BY THE COURT**

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**Hon. Oliver A Saksak
Judge**

