

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

Criminal
Case No. 25/348 SC/CRML

PUBLIC PROSECUTOR

v

GEORGE MAHAU

Date of Plea: 11th March 2025
Before: Justice Josaia Naigulevu
Counsels: Acting Public Prosecutor – Mr. Christopher Shem
Public Solicitor – Mr. Harrison Rantes

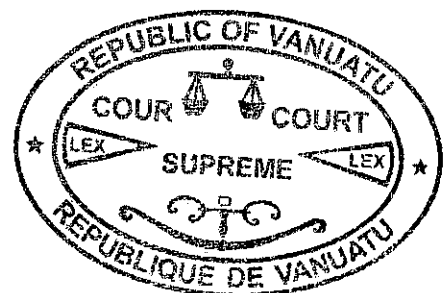
SENTENCE

Introduction

1. George Mahau, you appear for sentence following your guilty plea and acceptance of the summary of facts relating to a charge of domestic violence contrary to section 4 (1) a and 10 (1) of the Family Protection Act.
2. This offence was an alternative offence to the offence of attempted act of indecency with a young person contrary to sections 28 and 98A of the Penal Code.
3. You were duly convicted of the offence of domestic violence.

Facts

4. On the 15th December 2024, you told the complainant to accompany you to the garden to pick pawpaw fruit. The complainant was nine years old and refers to you as 'grandfather'. After picking pawpaw, you directed the complainant to follow you to a nearby burao tree. When you got there, you asked the complainant if you could touch her vagina. She told you that she did not want you to.



Sentencing purpose and Guideline

5. The sentence that is imposed is guided by principles that you must be held accountable for your offending, and that you must take responsibility for your action. Additionally, there exist propositions that your conduct is denounced by society and that similar future acts must be deterred.
6. Equally important also is that you must be given ample opportunity to rehabilitate.
7. The approach taken in the present case follows the guidance given by the Court of Appeal in the case *Philip v Public Prosecutor* [2020] VUCA 40.

Starting Point

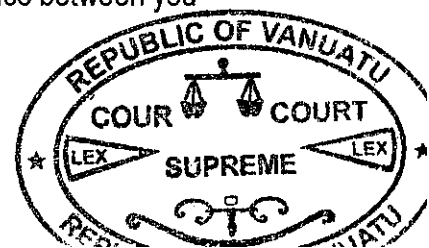
8. In assessing the appropriate starting point, I have taken into account the statutory maximum sentence, as well as the aggravating and mitigating factors of the offending.
9. The maximum penalty for the offence of domestic violence is set out in section 10(1) of the Family Protection Act. That section provides for a term of imprisonment not exceeding 5 years, or fine not exceeding VT100,000, or both.
10. The prosecuting counsel referred the Court to the case *Public Prosecutor v Mahit* [2023] VUSC 284. I found the case of minimal assistance because of the material difference with the present case in relation to the aggravating factors. I prefer instead the proposal of both counsels for a starting point of 12 to 15 months.
11. I adopt a global starting point of 15 months.

Guilty Plea

12. Mr. Mahau, you pleaded guilty to the alternative charge of domestic violence at the earliest opportunity. As the result you are entitled to a discount of 5 months, a period to be deducted from the starting point of 15 months.

Aggravating Factors

13. The following circumstances constitute the aggravating factors in the present case:
 - a) a gross breach of trust involving a person regarded as a grandfather to the complainant;
 - b) the complainant was a child of nine years; and the age difference between you and her is substantial. You are sixty-two years old.



c) A level of planning was involved in your mind.

Mitigating and Personal Factors

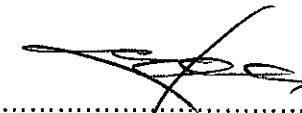
14. You are sixty-two years old and are married. You support your wife who suffers from cancer and had recently undergone surgery. You attend to her medication and daily needs. You have children and grandchildren.
15. You went to school until grade six, and undertake church and community services.
16. You are the sole breadwinner.
17. Your counsel draws to the Court's attention that you are a first-time offender. The absence of a previous conviction is taken into account.
18. These factors reduce your sentence by a further 4 months.
19. You were remanded at the correctional centre for 30 days. Your sentence is reduced by this period.

End Sentence

20. I have taken into account all the matters referred to already and impose an end sentence of 5 months.
21. I have taken into account the circumstances, the nature of your offending and your character and have decided to suspend your whole sentence for a period of the next 12 months.
22. Mr. Mahau, you are to complete a total of 60 hours of supervised community service over the next 12 months.
23. You have 14 days to appeal this sentence

DATED at Port Vila this 21st day of March 2025

BY THE COURT


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Hon. Josaia Naigulevi
Justice

