

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

Criminal
Case No. 21/2821 SC/CRML

BETWEEN: Public Prosecutor

AND: Clen Baet
Defendant

Date: 16th 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

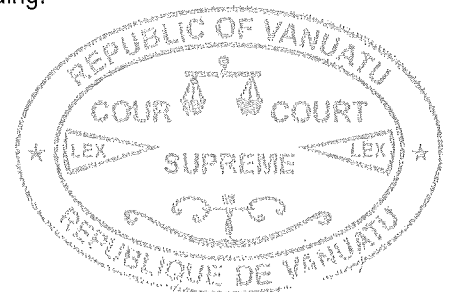
1. Mr Baet pleaded guilty to a charge of unlawful sexual intercourse with a young person aged between 13 and 15 years.

B. Facts

2. AL was born on 9 July 2006.
3. Mr Baet and AL were in a boyfriend/girlfriend relationship in early 2021, when Mr Baet was only 19 years old. In the course of the relationship they were engaging in sexual intercourse on occasions.
4. In July 2021, AL's father chanced upon them having sex, which he then reported to the police.

C. Sentence Start Point

5. 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.
6. The maximum penalty for this offending is 15 years imprisonment.



8. The mitigating feature of the offending is that CF was willing to participate. There are however also aggravating factors, which include:

- the age differential - Mr Baet was 30 at the time, CF was but 14 years old; and
- the lack of protection used, exposing CF to sexually transmitted disease and/or unwanted pregnancy.

9. The sentence start point I adopt is 4 years 6 months imprisonment.

D. Personal factors

10. Mr Baet pleaded guilty at the first available opportunity. That exhibits remorse and his acceptance of his wrong-doing. It also spared CF the need to give evidence. Accordingly I reduce the sentence start point by 33%.

11. Mr Baet is now 30 years old, single and employed at VUI.

12. Mr Baet has no previous convictions.

13. Mr Baet has performed a custom reconciliation ceremony involving a pig, a kava plant and VT17, 000 cash.

14. For his personal factors Mr Baet's sentence start point is further reduce by 4 months

E. End Sentence


15. The end sentence I impose is 2 years 8 months imprisonment. The sentence is back-dated to 18 August 2021. As this is sexual offending, there is Court of Appeal authority to the effect that suspending the sentence would be inappropriate: *PP v Gideon [2002] VUCA*.

16. All details leading to identification of CF are permanently suppressed.

17. Mr Baet has 14 days to appeal.

Dated at Luganville, this 16th day of September 2021

BY THE COURT


Justice G.A. Andrée Wiltens

