

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

Criminal
Case No. 21/2668 SC/CRML

BETWEEN: Public Prosecutor

AND: Thompson Vanua
Defendant

Date: 17th September 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr D. Boe for the Public Prosecutor
Mr R. Willie for the Defendant

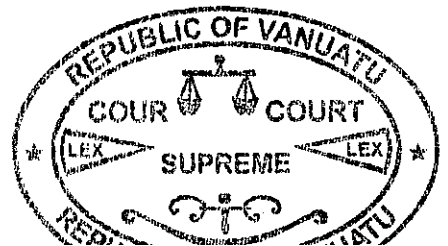
SENTENCE

A. Introduction

1. Mr Vanua pleaded guilty to 2 charges of act of indecency with a young person under the age of 15 years.

B. Facts

2. In 2019, the complainant HG was 11 or 12 years old. She resided at North Pentecost and attended the Vulumanu Junior Secondary School.
3. Mr Vanua was a 57 years old farmer residing at Nalahan Village, North Pentecost.
4. They are related - she calls him her uncle.
5. On numerous occasions in 2019 when HG would be at Mr Vanua's home with other school friends watching movies, he would approach HG, push his hands inside her skirt and touch her vagina.
6. On other occasions, again numerous, he would remove her skirt, show her his penis and place his penis between her legs and force HG to hold his penis.



7. When interviewed by the police, Mr Vanua admitted this offending.

C. Sentence Start Point

8. 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.

9. In this case the maximum sentence is 10 years imprisonment for each charge.

10. There are no mitigating factors to the offending. However there are aggravating factors which include the following:

- the age differential – HG was 12 or less, Mr Vanua was 57 years old;;
- the repeat nature of the offending;
- the touching involved skin-on-skin;
- the offending occurred in what should have been a safe environment for HG; and;
- the breach of trust involved.

11. The sentence start point I adopt is 4 years imprisonment for the 2 charges on a totality basis.

D. Personal factors

12. Mr Vanua pleaded guilty at the first available opportunity. That spared HG the need to give evidence and shows Mr Vanua accepts his wrong doing. For that reason the sentence start point is reduced by 33%.

13. Mr Vanua is currently 59 years old, married with 8 grown-up children. He is a farmer by occupation.

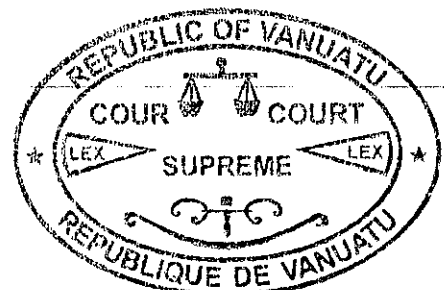
14. He has no previous convictions. He has produced a "medical report" which is not on letter head and is largely incomprehensible. On the reverse, in hand, is a statement to the effect that Mr Vanua has arrhythmia. It is signed by a person who claims to be a nurse. I am unable to place much weight on this document.

15. He has participated in a custom reconciliation which involved 10 pigs, valued at VT 590,000.

16. Mr Vanua explained the offending occurred when he felt sexually aroused due to HG bending over in front of him or scratching her legs. He said he would push her away by her ass. He denied putting his penis on her legs, which he said was a story made up by the community. These explanations carry no mitigating weight – he admitted the charge and the summary of facts.

17. For his personal factors I reduce Mr Vanua's sentence start point by a further 4 months.

E. End Sentence



18. The end sentence I impose is 2 years 4 months imprisonment. That is on both charges concurrently. The sentence start date is back-dated to 13 August 2021 to take into account time already served.
19. There can be no suspension of the sentence due to the nature and seriousness of the offending: *Gideon v. PP* [2002] VUCA 7.
20. All details leading to the identification of HG are permanently suppressed.
21. Mr Vanua has 14 days to appeal.

Dated at Luganville, this 17th day of September 2021
BY THE COURT


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Justice G.A. Andrée-Wiltens

