

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

Criminal
Case No. 21/2008 SC/CRML

BETWEEN: Public Prosecutor

**AND: Johna Iaru
Defendant**

Date: 5th October 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr L. Young for the Public Prosecutor
Mr H. Rantes for the Defendant

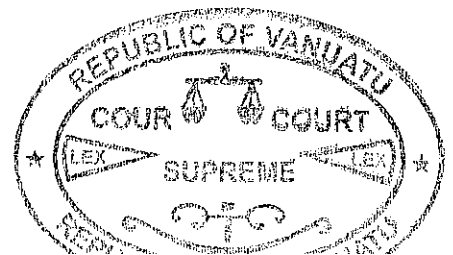
SENTENCE

A. Introduction

1. Mr Iaru pleaded guilty to 4 charges of act of indecency with a young person and 1 charge of act of indecency without consent. Other charges were dismissed.

B. Facts

2. CJ was born on 8 August 2001. Her sister VJ was born on 10 October 2003. Mr Iaru was not the biological father of the girls, but he treated them as if they were his children and they respected him and regarded him as their father. They took his surname as their own.
3. In July 2014, when her mother was absent from home, VJ was told to go and sleep in her mother's bedroom by Mr Iaru. She did so and was woken up from her sleep by Mr Iaru sucking her breasts and touching her vagina (charges 1 and 2). VJ was then 10 years old.
4. Throughout the remainder of 2014 and into 2015, Mr Iaru continued to regularly indecently assault VJ in the same manner. VJ was then 10 or 11 years old. (Charges 3 and 4)
5. On these occasions Mr Iaru instructed VJ to make no noise or he would beat her. Her young age, her embarrassment and the threats combined to prevent VJ reporting Mr Iaru's behaviour.



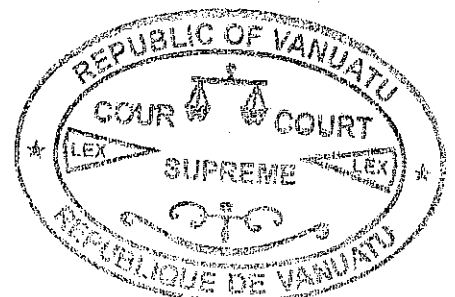
6. In 2017, VJ's mother went to work overseas, leaving her 3 daughters in the care of her then partner, Mr Iaru.
7. In 2019, Mr Iaru joined the RSE scheme and went to work overseas. That gave VJ the courage to report his conduct to her mother, and subsequently a report was made to the police.
8. On 20 May 2016, Mr Iaru offered to teach CJ the elder daughter to drive. On the way from Rentapau to Blue Water, Mr Iaru made CJ stop their truck. He asked if he could touch CJ. She said "no". However he proceeded by force to make her touch his penis while he touched her breasts and vagina. He also kissed her on the mouth. CJ escaped and ran off. Mr Iaru persuaded her to return to their truck by shouting at her and scaring her. He then instructed her to tell no one what had occurred. CJ was then almost 15 years old. (Charge 7).
9. Mr Iaru was subsequently overheard discussing this incident with CJ's mother on the telephone. In the course of the conversation, Mr Iaru admitted touching CJ.

C. Sentence Start Point

10. 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.
11. The maximum sentence for act of indecency with a young person is 10 years imprisonment. For the offence of act of indecency without consent the maximum penalty is 7 years imprisonment.
12. There are no mitigating aspects to the offending. There are however a number of aggravating aspects, which include the following:
 - The age differentials – 21 years and 15 years
 - planning and pre-meditation;
 - the repeat nature of the offending;
 - the fact there are 2 complainants;
 - the duration of the offending;
 - the threats involved;
 - gross breach of trust; and
 - offending at home and/or in family truck where the complainants should have felt safe.
13. I adopt a sentence start point of 5 years 6 months imprisonment taking all the offending into account on a global basis.

D. Mitigation

14. Mr Iaru pleaded guilty at the first available opportunity. He has spared the 2 young complainants the need to give evidence against him. For these factors I reduce the sentence start point by one-third.
15. Mr Iaru is now 36 years. He is now married with 3 children of his own, and his wife is currently pregnant. He is a teacher by profession.

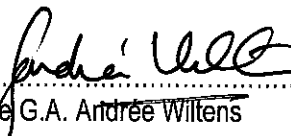


16. He has no previous criminal convictions.
17. He has not performed a custom reconciliation ceremony, although he states his business partner provided VT 24,000 to the victim's family. That is not mitigation.
18. I agree with Mr Young – the delay in this matter was caused by Mr Iaru scaring the complainants. There is no mitigation that flows from this.
19. For his personal factors I reduce Mr Iaru's sentence start point by further by 4 months.

E. End Sentence

20. Mr Iaru is sentenced to 3 years 4 months imprisonment. I impose that on all charges concurrently. There is no possibility of suspending the sentence. The nature of the offending and its seriousness militate against such leniency
21. All details that led to the identification of VJ and CJ are permanently suppressed.
22. Mr Iaru has 14 days to appeal his sentence.

**Dated at Isangel, this 5th day of October 2021
BY THE COURT**


Justice G.A. Andree Wiltens

