

**BETWEEN:** Public Prosecutor

**AND:** Mark Rausiama  
Defendant

*Date:* 6<sup>th</sup> October 2021  
*By:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr L. Young for the Public Prosecutor  
Mr H. Vira for the Defendant

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**SENTENCE**

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A. Introduction

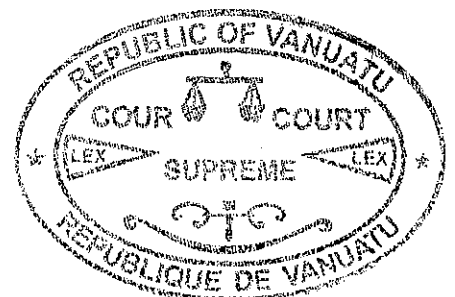
1. Mr Rausiama pleaded guilty to a charge of unlawful sexual intercourse with a young person aged over 13 but less than 15 years.

B. Facts

2. On 7 February 2021, Mr Rausiama met MS by arrangement. He asked her to follow him to hunt birds. As MS was with 2 friends at the time she was reluctant. However Mr Rausiama persuaded MS to go with him.
3. While in the bush they agreed to have sexual intercourse. He removed her clothes and his. He asked that she lie down, and he then lay on top of her and inserted his penis into her vagina. Although MS felt pain Mr Rausiama continued until he had ejaculated. MS was bleeding as it was her first experience of sexual intercourse. She was only 13 years old at the time.

C. Sentence Start Point

4. 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.
5. The maximum penalty for this offending is 15 years imprisonment.



6. It is mitigating of the offending that MS was a willing participant. That however does not make it lawful, as she was under age to be legally able to consent. The fact that Mr Rausiama says he did know MS' true age is immaterial.
7. There are also aggravating aspects, including:
  - Lack of protection used, exposing MS to sexually transmitted disease and unwanted pregnancy; and
  - The taking of MS' virginity at such a young age.
8. The start point I adopt for sentencing is 3 years 9 months imprisonment.

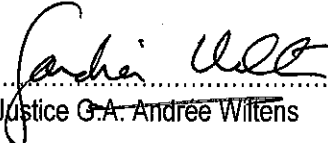
D. Mitigation

9. Mr Rausiama pleaded guilty to the amended charge at earliest the first opportunity. By doing so he spared MS the ordeal of having to give evidence against him in Court. For this I reduce the sentence start by one third.
10. Mr Rausiama is 22 years old. He is single and is cared for his step father. He has skills in farming and engineering, and until this offending had been employed by CCECC as a mechanic. He has now lost that employment.
11. He has no previous criminal convictions.
12. A significant custom reconciliation ceremony was held, but Mr Rausiama was then in custody. The complainant was also not present, which reduces the value of such mitigation.
13. For his personal factors I reduce Mr Rausiama's sentence start point further by 6 months.

E. End Sentence

14. Mr Rausiama is sentenced to 2 years imprisonment. He has already served 3 months and 8 days in custody. The sentence start date will therefore be as from 28 June 2021.
15. The nature and seriousness of the offending militate against any suspension of the sentence.
16. All details that led to the identification of MS is permanently suppressed
17. Mr Rausiama has 14 days to appeal his sentence.

Dated at Isangal, this 6<sup>th</sup> day of October 2021  
BY THE COURT

  
Justice G.A. Andree Wilfens

