

PUBLIC PROSECUTOR

v

~~BILL GAROLEO~~

*Date:* 25 February 2022  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Ms M. Taiki  
Defendant – Mr R. Willie

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SENTENCE

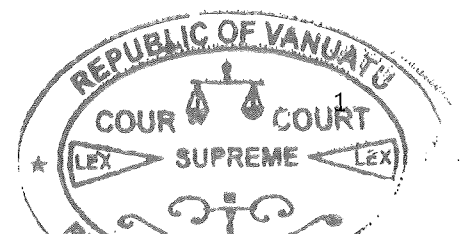
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A. Introduction

1. Mr Garoleo pleaded guilty to incest (Charge 1) and act of indecency without consent (Charge 2).

B. Facts

2. The complainant SG is Mr Garoleo's eldest biological child. She is 17 years old.
3. In July 2021, SG's brothers left the house to go bird-hunting. Mr Garoleo and SG looked for crabs then returned home. SG went to shower but Mr Garoleo told her not to as he would do something to her. She tried to run but Mr Garoleo grabbed her hair and forced her to go inside the house.
4. Mr Garoleo removed SG's outer clothes leaving her wearing her bra and panty and holding onto her, forced her outside to the shower. He rubbed soap on SG's body, touched her breast and pushed his hand inside her bra and panty (Charge 2).
5. Mr Garoleo then held onto SG's neck, pushed her down onto the grass, removed her bra and then pushed his finger into SG's vagina multiple times. SG felt pain and cried (Charge 1).



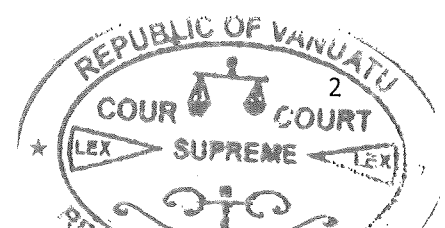
6. SG was upset and cried through the night. Mr Garoleo told her not to tell her mother what had happened.
7. The next day SG returned to the village and told her mother. They all left the village to stay with her mother's family.

C. Sentence Start Point

8. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
9. The maximum sentences provided are:
  - a. Incest – 20 years imprisonment: subs. 95(6), *Penal Code* [CAP. 135]; and
  - b. Act of indecency without consent – 7 years imprisonment: para. 98(a), *Penal Code*.
10. There are no mitigating aspects to this offending.
11. The aggravating factors of the offending include:
  - Serious breach of trust;
  - The offending occurred within the complainant's home where she was entitled to be safe and secure;
  - The offending was planned, occurring when other family members were out;
  - The impact on the complainant and harm suffered; and
  - Telling the complainant to report the offending.
12. The factors set out above require a global sentence start point of 6 years imprisonment.
13. I note that *PP v Tu* [2016] VUSC 20, *PP v Kensen* [2015] VUSC 44, *PP v Simeon* [2015] VUSC 17 and *PP v Bae* [2003] VUCA 14 cited by Mr Willie were all decided before the maximum sentence for incest was increased to 20 years imprisonment (by the *Penal Code (Amendment) Act No. 15 of 2016*).

D. Personal Factors

14. I reduce the sentence start point by 33% for Mr Garoleo's early guilty plea.
15. Mr Garoleo is 45 years old. He is married and has 10 children.
16. He has no previous convictions. However, in cases of sexual nature, a person's previous good character has little relevance in mitigating a sentence.



17. Mr Garoleo performed a custom reconciliation ceremony with SG, her mother and relatives involving 3 tusked pigs. These were accepted.
18. I further reduce the sentence start point by 3 months for Mr Garoleo's personal factors.
- E. End Sentence
19. The end sentences imposed concurrently are:
- a. Incest (Charge 1) – 3 years 9 months imprisonment; and
  - b. Act of indecency without consent (Charge 2) – 2 years 6 months imprisonment.
20. The sentences are back-dated to run from 22 December 2021 to take into account the 2 months 3 days already served in custody (16 September 2021 to 19 November 2021).
21. The sentencing principles applicable in this case are holding Mr Garoleo accountable for his criminal conduct, protecting the community including his own family and children, to denounce the criminal conduct, and to deter him and others from acting in this manner in future.
22. There will be no suspension of sentence: *Gideon v Public Prosecutor* [2002] VUCA 7.
23. All details leading to identification of SG are permanently suppressed.
24. Mr Garoleo has 14 days to appeal the sentence.

**DATED at Luganville, Santo this 25<sup>th</sup> day of February 2022  
BY THE COURT**

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Justice Viran Molisa Trief

