

PUBLIC PROSECUTOR

v

JACK KENNETH

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

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SENTENCE

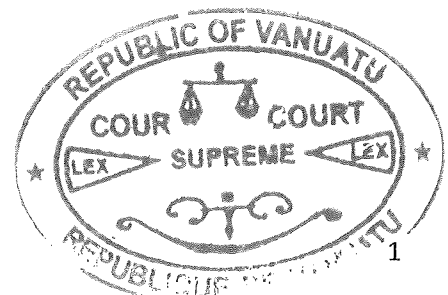
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A. Introduction

1. Mr Kenneth pleaded guilty to unlawful sexual intercourse with a child under 13 years of age. He is convicted on his plea and the admitted facts.

B. Facts

2. In July 2021, exact date unknown, LJ, then aged 6 years old, was searching for nangai nut with several other children. Mr Kenneth called them to follow him to a nangai tree. At the tree, he called LJ alone to follow him to cut a piece of bamboo.
3. Away from the others, Mr Kenneth removed LJ's pants and pushed his finger into her anus. This caused LJ pain and she began crying. He covered her mouth with his hand to prevent her screaming.
4. Mr Kenneth removed his pants and told LJ to open her mouth. He pushed his penis into her mouth until he ejaculated.
5. LJ told the other children what Mr Kenneth did to her. She also told her mother, crying. LJ's mother wanted to carry LJ but LJ said her anus felt sore.
6. Mr Kenneth admitted his offending to the Police.
7. Mr Kenneth and LJ are related to each other.



C. Sentence Start Point

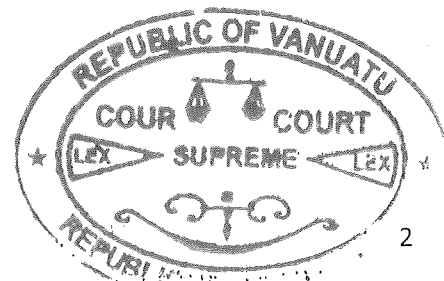
8. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
9. The maximum sentence for this offending is life imprisonment: subsection 97(1) of the *Penal Code* [CAP. 135].
10. There are no mitigating aspects to this offending. However there are several aggravating factors including:
  - Breach of trust;
  - The age of the complainant;
  - The extent of the offending – digital anal penetration as well as oral penetration until ejaculation; and
  - The effect upon LJ including her loss of innocence.
11. The factors set out above require a sentence start point of 7 years imprisonment.

D. Mitigation

12. Mr Kenneth pleaded guilty at the earliest available opportunity. He is entitled to a discount for sparing the need for LJ to give evidence and the saving of Court time and expense. For his prompt plea I reduce the sentence start point by 33%.
13. Mr Kenneth is young and immature. He is 15 years old and lives with his parents. He would be in Year 10 this year but for his offending. He has no previous convictions.
14. For Mr Kenneth's personal factors, I further reduce the sentence start point by 18 months.

E. End Sentence

15. The end sentence imposed is 3 years 2 months imprisonment. The sentence is back-dated to run from 16 December 2021 when Mr Kenneth was taken into custody.
16. I suspend the sentence for 2 years because of Mr Kenneth's lack of previous convictions, his prompt plea and his age and immaturity.
17. I also impose 12 months supervision including that Mr Kenneth attend any rehabilitation program that he is required to by the Department of Correctional Services and 80 hours community work.
18. Mr Kenneth has 14 days to appeal the sentence.



19. All details leading to LJ's identity are permanently suppressed.

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

*VM Trief*  
Justice Viran Molisa Trief

