

IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU

Criminal
Case No. 22/2426 SC/CRML

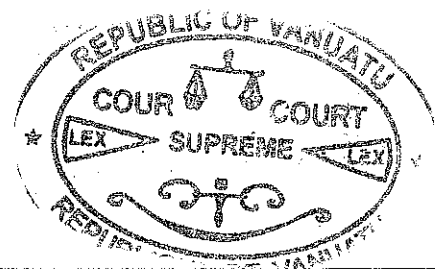
BETWEEN: Public Prosecutor

AND: Dehi Eranga
Accused

Date of Hearing: 20th September 2022
Before: Justice EP Goldsbrough
Appearances: Taiki, M for the Public Prosecutor
Garae, J for the Accused

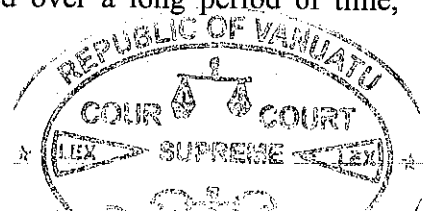
SENTENCE

1. Dehi Eranga pleaded guilty to two counts of acts of indecency with a child. Between January 2020 and July 2021, he would expose himself as he passed the home of the victim. In May 2021 he went into the home of the victim. She was otherwise alone. The defendant removed her trousers and touched her vagina after showing her his penis.
2. His victim was born in May 2009, so she was between 10 and 12 years of age when these offences took place. She did not report the offender until a little later after her mother had observed her being frightened when the offender was around. Eventually she asked her daughter what was wrong, and the truth emerged. The defendant later, together with his chief, spoke to the mother, apologized for his behaviour, and paid Vt 2000 by way of a customary fine. He admitted his behaviour to the police when arrested and agreed that his behaviour was wrong and stopped offending.



3. The maximum penalty for committing an act of indecency in these circumstances under section 98 (a) of the Penal Code is ten years imprisonment. The court will always look towards the maximum penalty provided when assessing an appropriate starting point. It will also look for those factors which aggravate the offence. Here the aggravation is found in committing the offence whilst the victim was at home where she is entitled to feel safe. The offence was repeated over several months and gradually worsened until the second offence which included physical touching. There is a vast age difference between the offender (32) and his victim (10). All those factors aggravate the offending.
4. The court will fix a starting point of two years for each of these two offences.
5. In mitigation, the offender has quickly admitted his guilt, he has expressed remorse and has paid a customary penalty. He is of previous good character.
6. For that the offender is entitled to some credit, which is reflected in a reduction from the starting point of 33% for the early guilty plea and a further 7% for the other factors in mitigation.
7. The court has considered the possibility of suspending the sentence imposed. Where sexual offences are concerned the Court of Appeal in *PP v Gideon* [2002] VUCA 7 has indicated that suspension of a sentence is not normally to be considered. It said: -

It will only be in a most extreme of cases that suspension could ever be contemplated in a case of sexual abuse. There is nothing in this case which brings it into that category. Men must learn that they cannot obtain sexual gratification at the expense of the weak and the vulnerable. What occurred is a tragedy for all involved. Men who take advantage sexually of young people forfeit the right to remain in the community.
8. The court has also considered *Gigina v PP* [2017] VUCA 15 where the Court of Appeal suspended a sentence of imprisonment. What is missing here, compared with that case, is the immediate denunciation of his own behaviour without waiting to be arrested or charged that prompted the suspension in *Gigina*. Here, Dehi Eranga only admitted his guilt once arrested. It took the victim's mother to notice behaviour from her child that led to questions that led to the truth being revealed. That was not the case in *Gigina*.
9. Given those two decisions, this Court is not prepared to suspend the sentence of imprisonment imposed. The offences were committed over a long period of time,



causing the victim to be traumatised, reminded every day of how she felt during this time when she encountered the defendant over and over again.

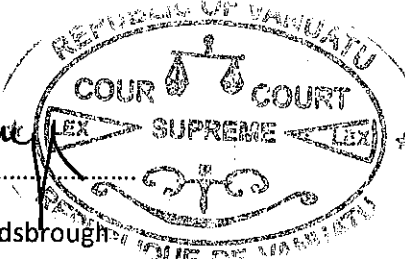
10. In the event Dehi Eranga is sentenced to 14 months imprisonment for each of these two offences to run concurrently. The offender has appeared today in answer to bail and has not been remanded in custody since his conviction and so the sentence will commence not later than 3 October 2022 considering the provisions of section 50 of the Penal Code.

11. Mr Eranga has 14 days within which to appeal this sentence. The victim cannot be identified from this judgment and that should remain the case, that no identifying particulars which might lead to the identification of the victim be published.

Dated at Luganville this 20th September 2022

BY THE COURT

EP Goldsbraugh
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Justice EP Goldsbraugh

The seal of the Supreme Court of Vanuatu is circular. It features a central scale of justice. The words "REPUBLIC OF VANUATU" are written along the top inner edge of the circle. Below the scale, the words "COUR" and "COURT" are written on either side. In the center, "SUPREME" is written. On the left and right sides, "LEX" is written. At the bottom, there is a decorative flourish and the words "REPUBLIC OF VANUATU" are repeated.