

PUBLIC PROSECUTOR

v

KALPRAM PHILIP

Date: 13 December 2022
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr K. Massing
Defendant – Mrs P. Malites

SENTENCE

A. Introduction

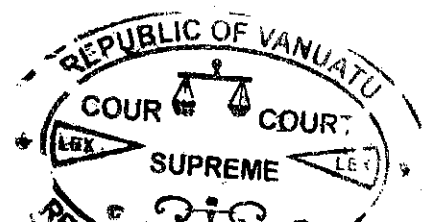
1. The Defendant Kalpram Philip pleaded guilty to act of indecency with a young person (Charge 4). He is convicted on his own plea and the admitted facts.

B. Facts

2. At the time of the offending, the complainant MJ was 14 years old. She was in primary school.
3. Mr Philip and MJ are related. They live in the same yard.
4. In December 2021, MJ went to look for ice blocks at the kava bar. Mr Philip was at the kava bar making kava. When MJ arrived, Mr Philip removed his pants and held her hands over his penis and made her masturbate his penis with both his and her hands (Charge 4).
5. Mr Philip admitted the offending to the Police.

C. Sentence Start Point

6. The sentence start point is assessed having regard to the maximum sentence prescribed, and the mitigating and aggravating factors of the offending.
7. The maximum sentence for act of indecency with a young person is 10 years imprisonment: section 98A of the *Penal Code*.



8. There are no mitigating aspects to this offending.
9. However the offending is aggravated by the following:
 - Skin-to-skin contact;
 - The 20-year age differential; and
 - Breach of trust as they are related and were neighbours.
10. The factors set out above require a sentence start point of 2 years 6 months imprisonment.

D. Mitigation

11. One third is deducted from the sentence start point for Mr Philip's early guilty plea.
12. Mr Philip is 34 years old. He works for Vanuatu Poultry, located behind the Abattoir. He has no previous convictions. Three months is deducted from the sentence start point for Mr Philip's personal factors.
13. Mr Philip served time in custody from 22 February 2022 to 8 April 2022 – effectively 3 months imprisonment. Accordingly, a further 3 months is deducted from the sentence start point.

E. End Sentence

14. The end sentence is 1 year 2 months imprisonment. This reflects the need to denounce this criminal conduct against young girls and against the values of society, as a general and specific deterrence and to hold Mr Philip accountable for his criminal conduct.
15. Given Mr Philip's previous clean record, employment and prospects for rehabilitation, I am prepared to suspend the sentence for 2 years. Mr Philip is warned that if he is convicted of any offence in the next 2 years, that he will be taken into custody and serve his sentence of imprisonment as well as the penalty imposed for the further offending.
16. In addition, Mr Philip is sentenced to 100 hours community work.
17. Mr Philip has 14 days to appeal.
18. The details leading to identification of MJ are permanently suppressed.

DATED at Port Vila this 13th day of December 2022
BY THE COURT


Justice Viran Molisa Trief

