

**IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU**  
*(Criminal Jurisdiction)*

**Criminal**  
**Case No. 23/338 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Peter Vule**

**Coram: Justice Aru**

**Counsel: Ms. M. Taikie for the Public Prosecutor**  
**Mr. J. Garae for the Defendant**

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**SENTENCE**

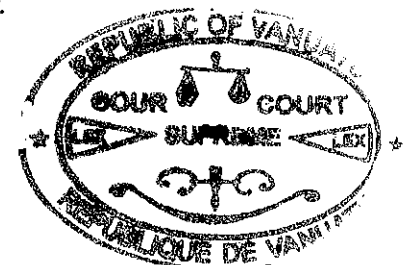
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Introduction

1. The defendant Peter Vule pleaded guilty to a single charge of acts of indecency without consent.

Facts

2. In November 2022 the complainant who was in Vila came to Santo to spend Christmas holidays with her mother's older sister and her husband, the defendant at Banban area. On 3 December 2022 in the early hours of the morning the complainant was asleep lying on her back facing upwards wearing only her bra and a pair of jean trousers.
3. The defendant laid next to her and began touching her face and rubbing her chest and breasts with his hands. Then the defendant tried removing her trousers. When the complainant realised what was happening she pushed the defendant's hand away from her body. The defendant took her hand and placed it on the area of his penis. The complainant pushed him away and sat up on her bed.
4. She told the defendant she wanted to go outside. She got up from her bed and instead of going outside went to her cousin sister's bed and lied down and cried. Her cousin had seen the defendant lying next to the complainant when she went to the toilet. On returning to the bedroom she noted that the defendant had left but the complainant was lying in her bed crying and told her what the defendant did to her.



5. The defendant approached them and gave the complainant VT2000 as a fine. The defendant's wife was at Nambahuk when she was informed of the incident. She returned the same day.
6. The defendant admitted to the Police that he gave VT 2000 to the complainant as a fine and for the complainant not to say anything about what happened.

#### Starting point

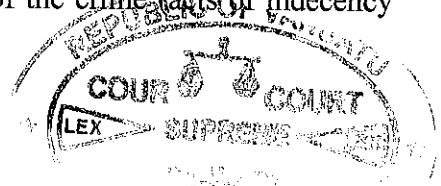
7. The starting point of sentence is assessed by taking into account the maximum penalty available for the offending and factoring in any aggravating and mitigating factors of the offending. The maximum penalty available for acts of indecency without consent is 7 years imprisonment. The offending is aggravated by the fact that there was a breach of trust. The complainant regarded the defendant as her uncle or father who was in a position to care for her not abuse her. There is an age disparity as the defendant is older than the complainant. The offending occurred in the home where the complainant is meant to feel safe and protected. There is also some element of planning as the defendant's wife was away at Nambahuk and the incident occurred at night.
8. There are no mitigating factors of the offending.
9. I adopt a starting point of 3 years imprisonment.

#### Mitigation

10. For the guilty plea the defendant pleaded guilty at the first available opportunity as a sign of remorse and thus saving the complainant the distress of having to recount the facts in open Court. I reduce the starting point of sentence by 33%.
11. The same day Report shows that the defendant is 48 years old and lives in a de facto relationship. He has a son from another woman and his de facto also has three children of her own and they all live together at Banban area. He is a first time offender. He earns his living as a stock taker with Puchee store and has been in that employment for 24 years. He is the main bread winner of his family and supports two step children with their school fees.
12. For his personal factors including his past clean record I further reduce the sentence start point by 8 months.

#### End sentence

13. The end sentence I impose is therefore 16 months imprisonment **effective from 14 December 2022 when the defendant was remanded into custody.**
14. Defence Counsel submits that the sentence be suspended. I have the discretion to do so under s57 of the Penal Code. Considering the nature of the crime (acts of indecency

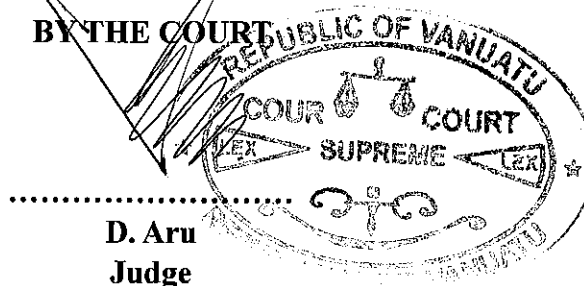


without consent) and what of the Court of Appeal said in **Public Prosecutor v Gideon** [2002] VUCA 7 concerning suspension of sentence in sexual abuse cases, there is no extreme circumstance why the sentence should be suspended and none has been identified to me by Counsel. The sentence will not be suspended.

15. The defendant has 14 days to appeal if he is dissatisfied with the decision.

**DATED at Luganville this 26<sup>th</sup> day of May, 2023**

**BY THE COURT**



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**D. Aru**  
**Judge**