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

Criminal  
Case No. 23/397 SC/CRML

**BETWEEN:** Public Prosecutor

**AND:** Danny Meltetake  
Defendant

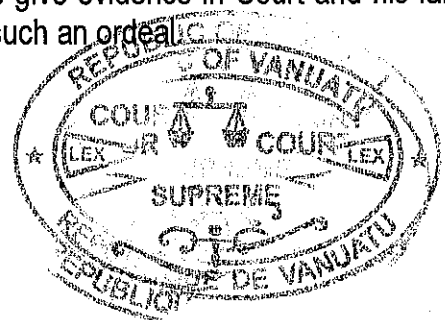
*Date:* 29<sup>th</sup> May 2023  
*By:* Justice R.L.B Spear  
*Counsel:* Mr J Aru on behalf of Ms M Tasso for the Public Prosecutor  
Mr B. Livo for the Defendant

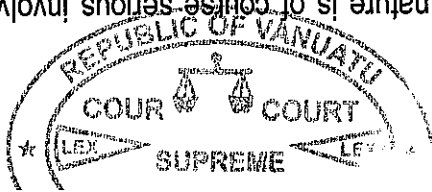
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**SENTENCE**

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1. The defendant is for sentenced having pleaded guilty to a count of committing and act of indecency with a young person contrary to section 98A of the Penal Code [CAP 135].
2. There is no dispute as to the facts of the offending.
3. The defendant and the complainant were close neighbours living in much the same yard in Freshwota 1. The defendant was 20 years old and the complainant was a young boy age 6 years at the time of the offending.
4. On 4<sup>th</sup> February 2023, the complainant was riding his bicycle around the yard. The defendant saw him and called him into the defendant's house. The complainant went into the house and was then told by the defendant to go and lie on the bed. The complainant refused but the defendant then made him lie on the bed. He the undressed the complainant and placed his mouth over the naked penis of the complainant. As soon as the complainant was able to leave the defendant's home, he went straight to his mother and reported the incident to her.
5. The defendant was interviewed by the police under caution on 8<sup>th</sup> February 2023 and he admitted the offending. It can be accepted that his guilty plea was entered at the first reasonable opportunity and accordingly he is entitled to full credit for that. It has saved the State the expense of a trial but particularly it has saved this young complainant the ordeal of having to give evidence in Court and his family the related ordeal of having to support their young son through such an ordeal.





6. Offending of this nature is of course serious involving, as it does, the sexual abuse of a young and vulnerable member of the community. This is offending which must be deplored by the Court and marked with a condign sentence. It is important that the sentence marks the seriousness of the offending, that it holds the defendant fully to account for the harm that he has done, and that it sends out the consistent message that the abuse of the young and vulnerable members of the community will be dealt with firmly by the Court. However, there is always the need to have regard to the rehabilitation of the offender.
7. I have a pre-sentence report that explains that the defendant is now 21 years of age, a single man originally from Vao on Malekula. He is the youngest in his family. The defendant resides with this family which includes two siblings. His education was limited completing school up to Year 8. He was not able to continue due to financial difficulties. He is unemployed and financially dependent on his parents.
8. The probation officer, in the pre-sentence report, curiously indicates that he/she was not able to contact the defendant's parents nor his community leader apparently due to telecommunications difficulties. I find that rather strange as for a serious offender such as this and the need for the Court to be assisted by Correctional Services, a visit to the parents and the community leader would appear to be necessary if not essential.
9. I also note from the pre-sentence report that the Correctional officer in Court today was to confirm that, prior to the defendant's first remand back in 2022, he had been making regular visits to the Mind Care clinic at Vila Central Hospital. The probation officer then states that he or she was unable to further information or even confirmation of that from the Mind Care clinic as the clinic was apparently being renovated. Again, I find that explanation someone wanting as I am in no doubt that a level of persistence on the part of the probation officer would have been able to obtain information about the defendant's mental health status.
10. It is necessary to assess the starting point for offending of this nature. For the prosecution, Mr Aru refers to the written submissions filed by Ms Tasso and contends that a starting point of between 3 or 4 years is appropriate. For the defence, Mr Livo considers that a starting point of between 2 and 3 years is appropriate.
11. There can be no set starting point for offending of this nature as the circumstances and level of seriousness can defer to a great extent. That notwithstanding, I adopt a starting point for committing an indecent act with a young person of 2 years imprisonment. That needs to be uplifted because of the age of the young person here being 6 years against the age of the defendant. Additionally, the level of intrusion by the act involved. With those aggravating features I consider that the adjusted starting point should be 3 years imprisonment.
12. The defendant is clearly entitled to a full one third credit for his early guilty pleas. Additionally, he has no previous convictions for like offending and there is the indication that he may have some mental health issues – for those issues, I allow a further 10%. That brings the sentence calculation in this case to one of 1 year 8 months imprisonment. I consider that to be an appropriate sentence in this case for this offending.
13. The issue then is whether any part or all of that sentence should be suspended. However, for cases as serious as this and absent any compelling personal circumstances, I consider that to suspend any part

of the sentence would send the wrong message. That message must consistently be that those who sexually abuse the young vulnerable members of our community should expect a term of imprisonment.

14. The sentence is accordingly one of 1 year 8 months imprisonment which is back-dated to commence on 15<sup>th</sup> February 2023 to take account of the time that the defendant served on remand on custody. That amounted to a total of 14 weeks and 5 days given that he was mistakenly released for a period of one week on 7 April 2023 but recall one week later.

15. The defendant has 14 days to appeal this sentence.

**Dated at Port Vila this 29<sup>th</sup> day of May 2023**

**BY THE COURT**

  
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Justice R.L.B Spear

