

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

Criminal
Case No. 23/990 SC/CRML

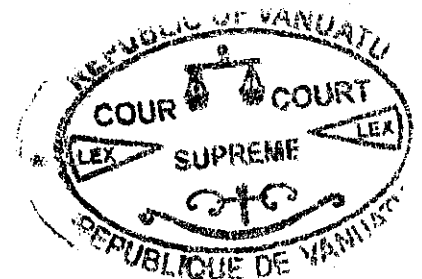
BETWEEN: Public Prosecutor

AND: Raphael Yoye
Defendant

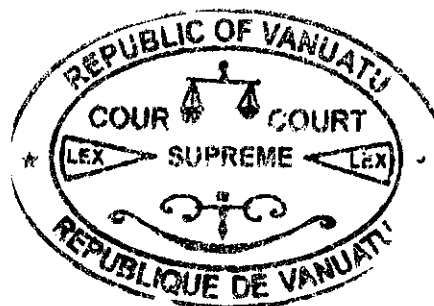
Date of PLEA: 10th July 2023
Date of Sentence: 20th July 2023
Before: Justice Oliver Saksak
In Attendance: Mr Gregory Simeon for the Public Prosecutor
Mr Lent Tevi for the Defendant

SENTENCE

1. Raphael Yoye pleaded guilty to two charges of unlawful sexual intercourse. He is for sentence today.
2. This is a very serious criminal offence as it carries life imprisonment as the maximum penalty.
3. The defendant is a 58 year old man married with 5 children. He worked as a shop assistant at a local store at Chapius Area. In 2022 at the shop he subjected his victim, a little girl of 8 years old to unlawful sexual behaviour. Those involved the insertion of his pointer finger into the girl's vagina. This occurred several times.
4. The second offending took place in 2023. The defendant called the victim into the store again and pushed his finger into the middle of her vagina and squeezed her belly.
5. A woman attended the store at the time and discovered the defendant in the act. The defendant pushed the girl under the table and pretended to be stacking goods on the shelf instead. But the woman saw the defendant whose hands were shaking. When the woman left the store, the little girl ran away to her own house.



6. The woman who attended the store and saw the incident made a statement confirming what she saw.
7. He defendant's actions of inserting his fingers into the middle of the victim's vagina amounts to sexual intercourse under the definition given in section 89A of the Penal Code Act [CAP 135] as amended.
8. The defendant's action were unlawful in that his victim was only 8 or 9 years old. It is a disgraceful behaviour of a fully mature father. They were well intended and planned but he got caught in the second act. The acts were repeated. There was great age disparity. There was a serious breach of trust. The defendant took advantage of the girl's tender age to sexually abuse her.
9. There was no mitigating circumstances for his offendings. He deserves a custodial sentence which is the only option available for him.
10. Taking all the aggravating features together with the seriousness of the offence committed, I adopt the start sentence of 8 years imprisonment on each Count to run concurrently.
11. In the mitigation I accept he is entitled to the full 1/3 reduction for guilty pleas which is 2 years 8 months leaving the balance to be 5 years and 4 months imprisonment.
12. I have seen his pre-sentence report showing his character and personal history. He has done so much good deeds as a Christian labourer in the community but only to let his faith down by his disgraceful behaviour.
13. I allow him a further reduction of 6 months for all his other personal factors. His end sentence is therefore 4 years and 10 months imprisonment.
14. The Court convicts and sentences the defendant to an end sentence of 4 years and 10 months imprisonment as a concurrent sentence for the two charges in Counts 1 and 2,



15. The sentence will not be suspended and it takes immediate effect. The sentence is backdated however to 14th June 2023. When he was first remanded in custody so he does not lose his parole privilege.

16. That is the sentence of the Court. There is a right of appeal against the sentence within 14 days.

DATED at Luganville this 20th day of July 2023

BY THE COURT


OLIVER A. SAKSAK *

Judge

