

**BETWEEN:** Public Prosecutor

**AND:** Franky Elijah  
*Defendant*

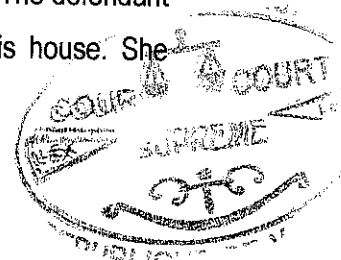
**Before:** Justice Oliver A. Saksak  
**Counsel:** Mr Mathias Kalwatong for Public Prosecutor  
Mr Harrison Rantes for the Defendant  
**Date of Plea:** 29<sup>th</sup> November 2024  
**Date of Sentence:** 6<sup>th</sup> December 2024

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**SENTENCE**

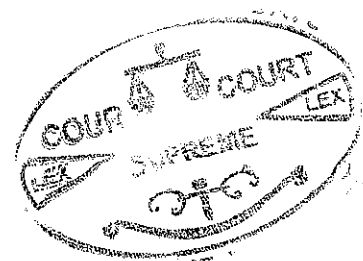
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1. The defendant was charged with one Count of Unlawful Sexual Intercourse contrary to section 97 (2) of the Penal Code Act. He initially pleaded not guilty but upon rearraignment on 29 November 2024, he pleaded guilty to the charge and is here for sentence today.
2. This offence carries the maximum penalty of 15 years imprisonment.
3. The defendant is a Police Office, now under suspension. The complainant was a Year 7 student born on 8<sup>th</sup> July 2008. The offending occurred on New Years Day, 1<sup>st</sup> January 2023. She was 14 ½ years old at the time of the offending.
4. On 1<sup>st</sup> January 2023 the defendant and his friends had been drinking and driving around in a black truck. At about 7pm in the night the complainant and her two cousins by names of Lina and Nathalie left their house to get to another village. The defendant drove by with his friends and saw the girls standing by the roadside. The defendant stopped and offered to take the girls for a ride around the Blackman Town. The three girls accepted the offer and jumped on the truck. The defendant was driving and he was drunk. They drove around town, to Bethel and to White grass where they stopped near Imanam road near the defendant's house. The defendant got off the truck and asked the complainant, Dolcy Willie to follow him to his house. She



hesitated but her cousins and the defendant's friends encouraged her to follow the defendant to his house.

5. At the house the complainant undressed and the defendant told her to lie down on the bed. The defendant also undressed himself and had sexual intercourse with the complainant. He ejaculated and dozed off. When he woke up next morning the complainant was still lying in bed beside him. He asked her for sex again but she refused.
6. After a complaint was lodged, the Police obtained a suspect statement from the defendant under caution. He freely admitted committing the offence but stated he did not know her age and said he was under the impression she was not underaged, and that she willingly engaged in the sexual activities that occurred that night.
7. No relationship existed between the defendant and the complainant although it appears from statements by the father that the defendant had developed a liking for the girl.
8. One thing is clear from the facts and it is this: that the defendant simply took advantage to sexually abuse the 14 ½ years old student. He was a policeman with the responsibility to protect her, yet he abused that trust. He put her to risk of catching vulnerable diseases and teenage pregnancy. The victim will relive the trauma of the defendant's actions for the rest of her life. The defendant was much more mature than the victim by about 12 years. These are the aggravating features of the offending. There are no mitigating circumstances. He has not shown or demonstrated any remorse.
9. I am assisted in assessing the defendant's sentence by the case of PP v Iven Patuntun [2024] VUSC 60 which had some similar facts. That case involved also a Policeman of 30 years who had sex with a girl of 13 years. The Court will adopt the principles in this case and the well known case of PP v Gideon [2002] VUCA 7 and PP v Scott [2002] VUCA 29.
10. The Court will therefore impose a sentence of imprisonment on the defendant and adopt the starting sentence of 6 years imprisonment. You are therefore convicted and sentenced to 6 years imprisonment.



11. In mitigation I consider first your guilty plea. He first pleaded not guilty on 6<sup>th</sup> June 2023 after which the Court had fixed his case for trial, he sought leave to be rearraigned on 29 November 2024. He is therefore not entitled to the full 1/3 reduction. He is entitled only to a 15 months reduction from his start sentence of 6 years imprisonment. The balance of the sentence is 4 years and 9 months imprisonment.
12. I have read his Same Day Pre-Sentence Report and note he is 27 years of age and single. He is the only son in his family and his father passed away in 2021 leaving his widowed mother dependent on him. His highest education level was Year 13 at the Matevulu College. He enrolled with the Police in 2020. His superior officer speaks well of him as well as his community leader.
13. His offending put his job as a Police Officer into jeopardy. He is likely to lose his job which will impact on himself, his mother and others who depended on him as their bread winner. From the defendant's submission he was arrested and remanded in custody for 7 days ( 1 week).
14. For all these factors together I will deduct his sentence by a further 12 months. His end sentence shall be 3 years 9 months imprisonment.
15. His sentence of 3 years and 9 months imprisonment shall be effective on 6<sup>th</sup> December 2024.
16. This sentence shall not be suspended as there are no exceptional circumstances warranting suspension. To do so would be to send the wrong message to the public.
17. The defendant has 14 days ( to 19 December 2024) to appeal against his sentence if he disagrees with it.

**DATED at Isangel, Tanna, this 6<sup>th</sup> day of December 2024**

**BY THE COURT**

  
**Hon. OLIVER A SAKSAK**

**Judge**

