

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

**Criminal Case No. 25/1055 SC/CRML**

**BETWEEN: PUBLIC PROSECUTOR**  
Port Vila

**State**

**AND: Ishmael Siel**  
Port Vila

**Defendant**

Date of plea: 3 June 2025  
Date of Sentence: 13 August 2025  
Before: Justice B. Kanas Joshua  
Counsels: Ms Micheline Tasso, for the State  
Ms Pauline Malites, for the defendant

---

**SENTENCE**

---

**Introduction**

1. Mr Ishmael Siel, you appear today for sentence for pleading guilty to an act of indecency with a young person, and unlawful sexual intercourse. You admitted and confirmed that that you invited 14-year-old LJK (complainant) to where you were working at Pango Surf side, as you thought he was a girl. You kissed him and instructed him to perform oral sex on you. After your sexual encounter with him, the complainant left and reported you to his mother. You stated in your caution statement that the complainant told you he was 18 years old.
2. The maximum sentence for the offences are:
  - a. 10 years of imprisonment for act of indecency with a young person; and
  - b. 15 years imprisonment for unlawful sexual intercourse.
3. You must be held responsible for your actions so others who also behave this way can see that this is against the law which has serious consequences, and stop their actions. This sentence should help you to rehabilitate, and must be generally consistent.
4. The sentence approach taken is in two steps, as in *Jimmy Philip v. Public Prosecutor*<sup>1</sup>, which applied *Moses v. R*<sup>2</sup>.

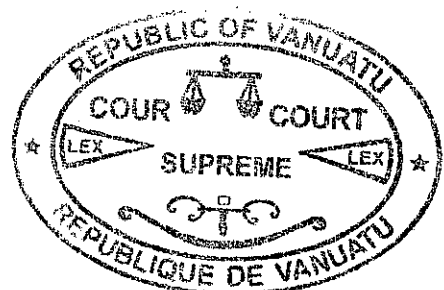
**STEP 1: Starting point**

5. The first step is to set a starting point. Reference is made to the aggravating and mitigating factors of the offending and the maximum penalty of the offence.
6. The aggravating factors are:

---

<sup>1</sup> [2020] VUCA 40.

<sup>2</sup> [2020] NZCA 296.



- a. The seriousness of the offending;
  - b. The age difference between the defendant and the complainant;
  - c. The vulnerability of the complainant; and
  - d. The shame and ridicule the complainant had to endure during and after the incident.
7. Prosecution did not identify any mitigating factors to the offending.
  8. Prosecution submitted a starting point of 3 years imprisonment. The case of *PP v. Lawrence*<sup>3</sup> was a helpful guide, where the court imposed a starting point of 6 years for unlawful sexual intercourse and 2 years for act of indecency with young person. After deductions were made for the guilty plea and other mitigating factors, the end sentence arrived at was 43 months for unlawful sexual intercourse and 16 months imprisonment for act of indecency. Prosecution submitted that the current case is less serious as the incident is one-off and there was no penetration. In that regard, 3 years is a good starting point for unlawful sexual intercourse, and 12 months for act of indecency.
  9. Defence concurred with Prosecution on the starting points they submitted. They referred to the case of *PP v. Lulu*<sup>4</sup>, where the court adopted a starting point of 12 months imprisonment is appropriate, with an end sentence of 5 months 2 days after appropriate deductions were made, suspended for 12 months. Defence conceded with prosecution that 12 months is appropriate for act of indecency. In the case of *PP v. Joe*<sup>5</sup>, the court adopted a starting point of 4 years. The defendant had abducted and threatened the victim with a knife before committing penile penetration. The offence of unlawful sexual intercourse in the current case is less serious and 3 years is an appropriate starting point.
  10. The case *PP v. Scott and Tula*<sup>6</sup> was also referred to, to show how the court seriously considers the principal of protecting the vulnerable. I give a starting point of 3 years imprisonment for unlawful sexual intercourse, and 12 months for act of indecency with young person, to be served concurrently. Deductions will be made on the overall total of 3 years.

## Step 2 – Personal factors

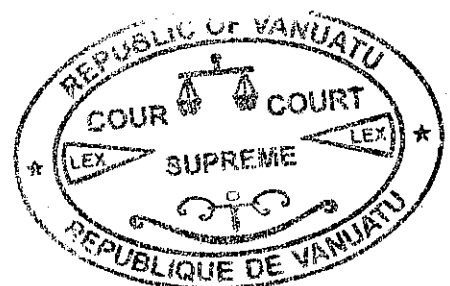
11. The second step is to make the appropriate deductions for personal factors. No aggravating factors personal to the offender was identified.
12. Mitigating factors personal to the offender are,
  - a) Early guilty plea entered;
  - b) Full cooperation with police;
  - c) First time offender;
  - d) Defendant believed that the complainant was 18 years old;
  - e) Remorseful;
  - f) Custom reconciliation performed to the complainant;
  - g) Low risk of re-offending;
  - h) Social shame and stigma faced in the Pango community; and
  - i) No evidence of grooming, manipulation or planning.

<sup>3</sup> [2022] VUSC 141.

<sup>4</sup> [2025] VUSC 108.

<sup>5</sup> [2025] VUSC 122.

<sup>6</sup> [2002] VUCA 29.



13. Defence submits that a deduction of 33% be given. Prosecution did not mention any deductions. I give 25% discount for the guilty plea. The defendant is an adult, married with two children. He should know better than to be committing such acts outside of his relationship, let alone with young boys. This discount brings the sentence to 27 months. I further deduct 3 months for the other mitigating factors, bringing the sentence to 24 months imprisonment.
14. The 3 months spent in pre-sentence custody equates to an effective sentence of 6 months imprisonment. I deduct 6 months, bringing the sentence to 18 months imprisonment.

**End sentence**

15. Mr Ishmael Siel, you are sentenced to 18 months imprisonment.
16. You are in your forties and you have a family. This is the first time you have offended the law and while you were in remand you performed a custom reconciliation with the victim's family to show your remorse. You say you have a medical condition that has resulted in numbness on one side of your body. Your pre-sentence report shows that you have a good character and have been a good member in the community, which explains why the chief and pastor are shocked because they did not expect you to do such an act. This act is a one-off incident only. For this I am using my discretion, in Section 57 of the Penal Code Act CAP 135, to suspend this sentence for 2 years. In that time, you must not re-offend. If you do, you will be arrested and this sentence will be activated.
17. To assist with rehabilitation, I order that,
- a. You must do 80 hours of community work, and
  - b. You must attend one the programs offered by Correctional Department.
18. The name and identity details of the victim must be suppressed for confidentiality purposes.
19. You have 14 days to appeal this sentence, if you are not satisfied with it.

**Dated at Port Vila on this 13<sup>th</sup> day of August, 2025**

**BY THE COURT**

