

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

Criminal  
Case No. 25/1624 SC/CRML

BETWEEN: Public Prosecutor

AND: Enock Simeon  
Defendant

Coram: Justice Dudley Aru  
Counsel: Ms. J. Tete the Public Prosecutor  
Mr. J. Garae for the Defendant

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## SENTENCE

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### Introduction

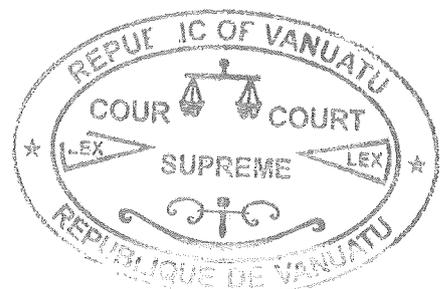
1. Enoch Simeon pleaded guilty to one count of unlawful sexual intercourse. He is convicted on his guilty plea and the admitted facts. This is his sentence.

### Facts

2. The victim who was 7 years old at the time of the offending refers to the defendant as her pupu or grandfather.
3. On the afternoon of 29 March 2025, the victim followed her mother to the defendant's house. Upon arrival at the house the victim's mother went and spoke to the defendant's wife. The victim on seeing a sister of hers playing inside the kitchen decided to join her. While playing the victim saw the defendant sitting on a chair in the kitchen and decided to come to him. She came and sat close to the defendant. He told her to move closer but she refused. The victim wore a skirt at that time and the defendant pushed his finger into the victim's vagina. She felt pain but did not cry or scream because the defendant told her not to tell her mother. The victim was still in the kitchen with the defendant when her mother came to fetch her.
4. When they got home the victim began crying. Her mother enquired as to why she was crying and the victim reported what the defendant did to her in the kitchen. When the defendant was interviewed by the Police he admitted the allegations.

### Sentence start point

5. When determining the sentence start point, I am required to consider the maximum sentence available as well as any aggravating or mitigating factors of the offending. The maximum sentence available for unlawful sexual intercourse with a child under 13 years of age is imprisonment for life as provided under s97 (1) of the Penal Code.
6. There are a number of aggravating factors namely:



- Age disparity - there is a 31-year age difference;
  - Breach of trust – the victim refers to the defendant as her pupu; and
  - Psychological effect of the defendant's actions on the victim
7. There are no mitigating factors.
8. In *PP v Gideon* [2002] VUCA7 the Court of Appeal made it very clear that “*men who take advantage sexually of young people forfeit their rights to remain in the community*”. The prosecution referred to a number of cases for comparison and submitted that a starting point of 6 to 8 years imprisonment would be appropriate.
9. Mr Garae also referred to a number of cases and submits that this case involves digital penetration which is less serious than penile penetration. He referred to *Nampo v PP* [2018] VUCA 43 where in its remarks the Court said that the distinction between digital and penile penetration should be recognised for sentencing purposes.
10. The offending in this case was one off and not repeated and it involves digital penetration of the vagina where the defendant inserted his finger into the victim's vagina. I adopt a starting point of 5 years imprisonment to mark the seriousness of the offending and to serve as punishment for the crime. It also serves as a deterrence to the defendant and the public at large from such offending and to protect young girls from such predatory behaviour.

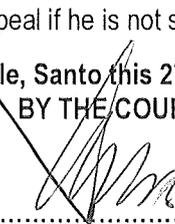
#### **Guilty plea and personal factors**

11. The defendant entered a guilty plea at the first available opportunity as a sign of remorse therefore the sentence will be discounted by 30%.
12. A Same Day Report was filed as directed which provides some details about the defendant's background. He is 38 years old and hails from Namalo village, South Santo and he is a first time offender. The defendant lives in a de facto relationship with his wife and they have a son who is now in class three in primary school.
13. The defendant does gardening and sells food crops to earn his living to support his family. He is the breadwinner of his family. For his personal factors the sentence start point is further reduced by 4 months.

#### **End sentence**

14. The defendant is sentenced to an end sentence rounded off to **3 years imprisonment effective from 3<sup>rd</sup> April 2025** when he was remanded into custody.
15. The defendant has 14 days to appeal if he is not satisfied with the decision.

DATED at Luganville, Santo this 27<sup>th</sup> day of August, 2025  
BY THE COURT

  
Dudley Aru  
Judge

