

(Criminal Jurisdiction)

CRC 4 - 2004

**PUBLIC PROSECUTOR – VS – JACOB NOF**

**Coram:** Mr Justice Oliver A. Saksak  
Ms Cynthia Thomas – Clerk

**Counsel:** Mrs Linnes Moli for the Public Prosecutor  
Mr Chris Tavoia for the Defendant not appearing

**SENTENCE**

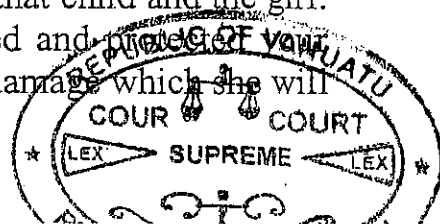
To the Defendant appearing personally.

You are charged with Indecent Assault - Section 98 (2), and with Unlawful Sexual Intercourse – Section 97 (2), and with Sexual Intercourse with child under care and protection – Section 96 (1) Penal Code Act (CAP. 135). Indecent Assault carries a maximum sentence of 7 years imprisonment and sexual intercourse under Sections 97 and 96 carry maximum terms of 10 years imprisonment. You have pleaded guilty to these three charges. You could be imprisoned for 27 years.

In sentencing you today I have considered the mitigating factors submitted on your behalf by Mr Tavoia and allow some credit for your admissions to the police; your guilty pleas in this Court; your remorse and contrition, your performance of custom to your wife by paying VT85.000 and for your promise not to re-offend.

I was also invited by Mr Tavoia to consider other sentencing options apart from imprisonment. However this is not a case where imprisonment can be avoided.

This girl was your step-daughter. You married her mother. She was 13 ½ years old when you started committing these offences in October 2000. You continued having sex with her until August 2002. She was pregnant and has now given birth to a child. You are the father of both that child and the girl. You are a mature man. When you should have cared and protected your step-daughter, you abused her causing her irreparable damage which she will live with all her life.



In assessing your punishment, I have considered and applied the principles laid down by the Court of Appeal in -

- (1) Peter Talivo v. Public Prosecutor (1996)
- (2) Public Prosecutor v. Keven Gideon (2003)

I have also considered and applied the principles in Public Prosecutor v. Raymond (1995). You have repeated these acts on your step-daughter causing her to be pregnant. You deserve a higher prison term for these offences.

I therefore sentence you as follows:-

- (1) For Count 1 - Indecent Assault - 2 years imprisonment
- (2) For Count 2 - U/S/I - 3 years imprisonment
- (3) For Count 3 - S/I with child under care - 3 years imprisonment.

Total - 8 years imprisonment. These terms will be served consecutively to reflect the seriousness of these offences and to mark the public's disapproval of such behaviour, as an act of deterrence to others.


You will begin to serve these terms immediately today.

The period that you have spent in custody (1 month and 4 days) are included in the 8 year term.

You may appeal within 14 days if you wish.

**DATED at Luganville this 16<sup>th</sup> day of March, 2004.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**  
Judge.

