

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**

(Criminal Jurisdiction)

Criminal Case No. 84 of 2010

PUBLIC PROSECUTOR

-V-

KAKA LESLIE ALING

Coram: Justice N. R. DAWSON

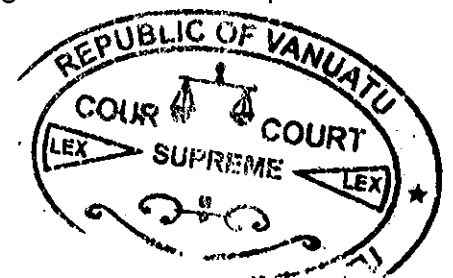
Date of Sentence: 6th December, 2010

Counsel: Mr. P. Wirrick for Public Prosecutor

Mr. E. Molbaleh for Accused

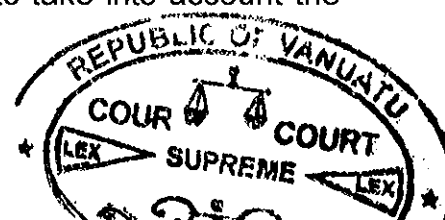
SENTENCE

1. Mr. Kaka Leslie Aling appears in Court today for sentencing on One count of Unlawful Sexual Intercourse. That count carries a maximum sentence of 5 years imprisonment.
2. The facts of the offending are that on the night of 24th July, 2010 the complainant and her sister were approached by a relative of the complainant who asked her to accompany her and her boyfriend to go to a residence at Fresh Wota 4 area for the night. The complainant went along with this person and her boyfriend. At that time, the defendant who is also related as an in law to the complainant, accompanied them to the address at Fresh Wota 4. On reaching that property the female relative said words to the effect that the complainant was to go and sleep at the Defendant's house. The complainant went with the Defendant into the Defendant's room where the defendant turned off the lights, laid the complainant down on his bed and removed her clothing. He then placed a condom on his penis and then had sexual intercourse with the complainant. The complainant and defendant slept together on the bed until the following morning when the complainant



returned to her house. At the time of the offending Mr. Aling was 16 years of age and the complainant was 14 years of age.

3. Mr. Aling, I have received and read the Probation Report and I have also received and read the submissions from the Public Prosecutor and from the Public Solicitor on your behalf. In sentencing you it is necessary to take into account the need for young women in the community to be protected from sexual predation from males in the community.
4. There are aggravating features to your offending. The first is that what you did was a breach of trust as you are related as an in law to the complainant. The second aggravating factor is the vulnerability of the victim, she was a young girl aged only 14 years of age.
5. In mitigation you yourself were only 16 years of age at that time and you entered an early guilty plea. You have expressed remorse for your offending which I accept is sincere, you are a person of good character in that you have no previous convictions and you have conducted a reconciliation ceremony to the victim and her family and given gifts to them.
6. Your probation report is favourable to you. It notes that you are ashamed of your behaviour and felt sorry for the victim and you have apologized to the victim face to face. You are assessed to be at the low risk of offending because you have appeared to demonstrate an insight into your offending, you appear motivated to address your offending behaviour and you have no previous convictions. Your probation report notes that at the custom ceremony you and your family presented to the victim is 6 mats, 1 calico, VT10,000 cash, 2 bags of rice amounting to 18 kg, 4 chickens, a basket of manioc, 3 bundles of bananas, 2 stampa kava, 1 pig and 1 basket of kumala. The victim and her family have accepted the custom ceremony and the mother of the victim stated that she and the victim have accepted the custom ceremony. The probation report notes that the victim herself has requested that the case against you be withdrawn.
7. Notwithstanding the mitigating factors and the probation report, you need to be aware Mr. Aling that this offending is serious and almost always results in a sentence of imprisonment.
8. Having looked at the summary of facts, the starting point to sentence you would be a term of imprisonment of 3 years. I then to take into account the



mitigating factors I have already mentioned, and it would be appropriate to sentence you to a term of imprisonment of 2 years and that sentence is now imposed. However, taking into account the strong mitigating factors and the probation report I am going to suspend your sentence for a period of 2 years. What that means Mr. Aling is, if you stay out of trouble for the next 2 years you will not go into prison. But if you do get into trouble and come back to this Court you may be sentenced to prison on this offence. You are also sentenced to 40 hours of community work and a term of supervision for 1 year, with the condition that you are to participate in the Niufala Rod program. The purpose of imposing a sentence of Supervision is to assist you to see that what you did was wrong and to ensure that you don't offend again.

9. In sentencing you I also note that you have spent 2 months in prison on remand and that has been taken into account when I considered the suspension of your sentence of imprisonment.
10. You have the right to appeal this sentence. For any appeal you must lodge a notice of appeal within 14 days of today's date.

Dated at Port Vila, this 6th day of December, 2010

BY THE COURT

