

**PUBLIC PROSECUTOR – VS – MARK KASO**

**Coram:** *Mr. Justice Oliver A. Saksak*

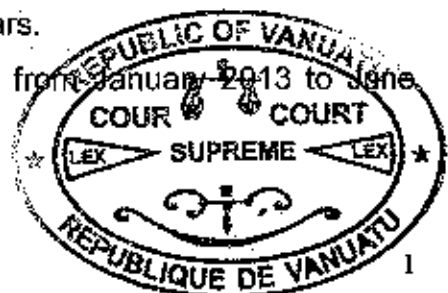
**Counsel:** *Ms. Kayleen Tavoia, Public Prosecutor for the State*  
*Ms. Jane Tari for the Defendant*

**Date of Hearing:** *3<sup>rd</sup> September 2013*

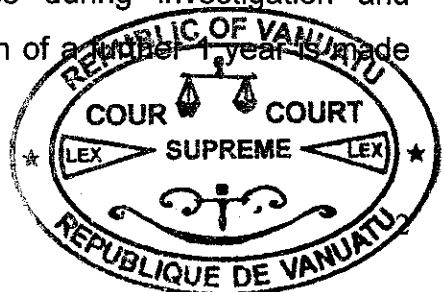
**Date of Sentence:** *4<sup>th</sup> September 2013*

**SENTENCE**

1. Mark Kaso you pleaded guilty to two counts of acts of indecency with a young person contrary to section 98 A of the Penal Code Act [Cap 135] (the Act). The maximum penalty for this offence is 10 years imprisonment.
2. Due to your admissions, the Court convicts you on both counts as charged. And I consider that the appropriate sentence for you is to be a custodial one. Again this sentence is to reflect –
  - (a) The seriousness of your offendings;
  - (b) The public disapproval or condemnation of your actions;
  - (c) A deterrence on both yourself and other men;
  - (d) The Court's duty to protect young girls and women generally;
  - (e) Appropriate and adequate punishment for you.
3. You have accepted the facts as presented by the Prosecution. Those facts indicate the following aggravating features –
  - (a) A breach of trust.
  - (b) The victim, a very young and little girl of 5 years.
  - (c) The offence was repeated more than once from January 2013 to June 2013 for some 6 months.



4. The Prosecution proposed a starting point of 5 – 6 years imprisonment and defence counsel proposed a starting point of 4 – 5 years imprisonment. However, the Court is of the view the starting point for you should be 3 years imprisonment.
5. Your offendings involved mere rubbing of the penis against the victim's vagina and nothing more. The charge under Count 1 appears to be a representative charge for incidents occurring between January 2013 to 27<sup>th</sup> June 2013. The charge under Count 2 is specific to the incident on 28<sup>th</sup> June 2013. At best the charge could have been brought under Count 1 as a representative charge. The charge under Count 2 was therefore not warranted or necessary. It is deemed to have been included in Count 1.
6. For that reason, the Court will sentence you only in relation to the offendings under Count 1. There will be no separate punishment imposed for the offending under Count 2. This is treated simply as an aggravating feature in addition to those stated in paragraph 3 above.
7. The Court therefore sentences you as follows:-
  - (a) For Count 1 – 3 years imprisonment as the starting point.
  - (b) For Count 2 – no separate punishment imposed.
8. There will be an uplift by 1 year for the aggravating features. The sentence is therefore increased to 4 years imprisonment.
9. I now consider mitigation of sentence. You are entitled to reductions for –
  - (a) Guilty plea – 1/3 reduction which is 1 year and 4 months. The balance of the sentence is 2 years and 8 months.
  - (b) First-time offender, cooperation with police during investigation and interviews and custom ceremony, a reduction of a further 1 year is made leaving the balance at 1 year and 8 months.




10. You will serve a total of 1 year and 8 months at the Correctional Centre in Luganville. Your Sentence is back dated to 15<sup>th</sup> July 2013 when you were first remanded in custody.

11. You have a right of appeal against this Sentence within 14 days if you are not happy with it.

DATED at Luganville this 4<sup>th</sup> day of September 2013.

BY THE COURT

  
OLIVER A. SAKSAK ★  
Judge

