

PUBLIC PROSECUTOR – VS – SALERUA VIRA

Coram: Mr. Justice Oliver A. Saksak

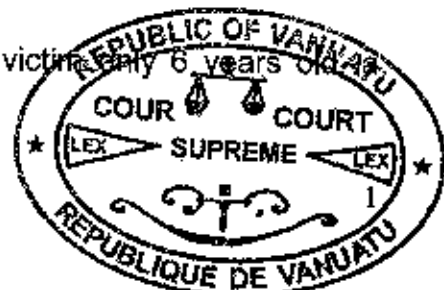
Counsel: Ms Kayleen Tavoa, Public Prosecutor for the State
Mr. Jacob Kauslam, Public Solicitor for the Defendant

Date of Hearing: 3rd September 2013

Date of Sentence: 4th September 2013

SENTENCE

1. Salerua Vira you pleaded guilty to one Count of act of indecency without consent contrary to section 98 (a) and to one Count of sexual intercourse without consent contrary to section 90 – 91 of the Penal Code Act [Cap 135] (the Act).
2. The maximum penalty for an offence under section 98 (a) of the Act is 7 years imprisonment and for an offence under sections 90 – 91 it is life imprisonment. Your offendings therefore warrant a sentence of imprisonment. I accept Counsel's submissions that the starting point for you will be 8 years imprisonment.
3. Based on your own admissions the Court enters conviction against you on both Counts as charged. You will however be sentenced only in relation to the lead offence in Count 1. The Court treats the offending in Count 2 only as an aggravating feature.
4. You have accepted the facts as presented by the prosecution. Those facts show the following aggravating features which warrant an uplift on the starting point –
 - (a) A serious breach of trust between you as father and your daughter, the victim.
 - (b) Great disparity of age, you being 31 and the victim only 6 years old difference of 25 years.



- (c) Your victim is very young.
- (d) The offences were repeated over a period of more than a year from March 2011 to July 2012.
- (e) You have a blemished criminal record.

For these aggravating features, your sentence of 8 years is increased by 1 year to 9 years.

5. Again due to the increase of this type of sexual offence, it is the Court's duty to impose a sentence which will reflect the following –
 - (a) To mark the seriousness of your offending;
 - (b) To mark the public disapproval or condemnation of your actions;
 - (c) A deterrence for you and other men;
 - (d) The Court's duty to protect young girls and women generally; and
 - (e) Appropriate and adequate punishment for you.

6. As for mitigation, I consider you are entitled to a reduction of Sentence as follows:-
 - (a) For guilty plea at first opportunity – 3 years representing a 1/3 reduction. The balance is now 6 years.
 - (b) For cooperation with police during investigation and interview, a reduction of 1 year is allowed. The balance you have is now 5 years.

7. You are therefore sentenced to serve 5 years imprisonment at the Correctional Centre in Luganville. Your sentence is back-dated to 15th July 2013 when you were first remanded into custody.

8. You have a right of appeal against sentence within 14 days if you do not agree with it.

DATED at Luganville this 4th day of September 2013.

BY THE COURT

Oliver A. Saksak
OLIVER A. SAKSAK

Judge

