

IN THE MAGISTRATE'S COURT OF
THE REPUBLIC OF VANATU
HELD AT LUGANVILLE, SANTO Criminal Case No. 65 of 2008

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

RUWEN SIMEON

JUDGMENT

The Defendant appeared before this Court and entered a plea of guilty to a charge of unlawful sexual intercourse, an offence contrary to Section 97(2) of the Penal Code Act, Cap. 135.

The offending section provides that:

“No person shall have sexual intercourse with any girl under the age of 15 years but of or over the age of 13 years.

Penalty: Imprisonment for 5 years”.

The facts are that the victim is 14 years, 4 months and 20 days old and, a student (Year 9) at Hog Harbour Junior Secondary School at East Santo. The defendant is from Naone Village, South Santo and is 28 years old. At about 6pm on the night of the 28th of December, 2007 she was in the company of others and were walking to Vimele village to sing new year greeting songs. On their way there they met

the defendant who called the victim and asked her to leave the group and accompany him. On their way to his village they shared a packet of biscuit.

At his village they entered his house and he suggested that they sleep because it was late but she objected. He then asked that they have intercourse and they did, two times, he with the safety of condoms. She consented to him having intercourse with her. She previously had intercourse with about 5 young men from Vimele village. He walked her to her village after they had intercourse.

Mr. Rexton Langon for the Prosecution submitted that men taking advantage of young age is a serious offence and cited the leading case of PP –v- Kevin Gedion, Criminal Case No.03 of 2003, Court of Appeal and another of PP –v- LemayaTaun, Criminal Case No21 of 2005, Supreme Court. That custodial of 3 years imprisonment would be the appropriate sentence.

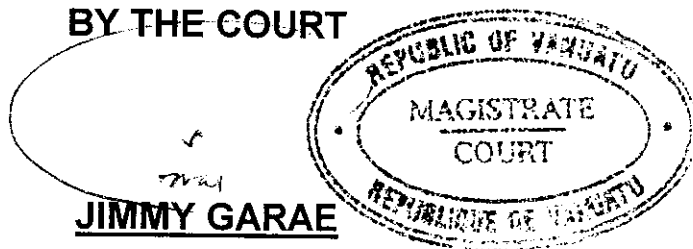
Mr. Tavoia for the defendant made submission and cited a number of cases, one of which is PP –v – Kevin Gedion. In this case the Court said in extreme cases only could a suspended sentence be contemplated. In the other cases he cited suspended sentences were ordered. He said the case before this Court is one that is referred to as extreme where the appropriate sentence is a suspended sentence. In this case the victim consented to the defendant having intercourse with her. As well the victim is of loose behavior as some other young has had intercourse with her in the past.

This case is one of the "extreme" cases which does not warrant a custodial sentence. In considering the cases cited by Mr. Tavoia the appropriate sentence in the case before this Court is a suspended sentence.

The defendant is convicted and sentenced to a term of imprisonment of 14 months which sentence is suspended for a period of two years.

DATED at Luganville this 05th day of June 2008

BY THE COURT



JIMMY GARAE

Senior Magistrate