

**PUBLIC PROSECUTOR**

**Vs.**

**GEORGE FRANK**

Coram: Mr Justice Oliver A. Saksak  
Mrs Anita Vinabit - Clerk

Ms Kayleen Tavoia, Public Prosecutor, Prosecuting  
Mr Hillary Toa, Public Solicitor, Defending

27<sup>th</sup> March 2006 at Ambore, West Ambae.

**SENTENCE**

George Frank was initially charged with one count of rape contrary to Section 91 and with one count of incest, contrary to section 95 (1) (a) of the Penal Code Act CAP 135.

Before pleas were taken the Public Prosecutor sought leave to withdraw the charge of rape. Accordingly leave was granted and that charge was withdrawn against the accused. The accused pleaded guilty to incest. The complainant was the accused's daughter by his first wife. She was 17 years at the time of the offending. She complained that between the months of May to October 2005 at Vilakalaka village West Ambae the accused had had sex with her on many occasions resulting in her pregnancy and ultimately an expulsion from her secondary education from the Nafuturiki Junior Secondary School. The accused admitted having sex with his daughter up to at least seven times, and that as a result his daughter was pregnant.

I heard pleas in mitigation on behalf of the accused from Mr Toa. He pleaded for leniency for the following reasons:-

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- (a) There had been a reconciliation ceremony on 23<sup>rd</sup> November 2005 during which the accused had paid VT10,000 together with a red mat to his daughter.
- (b) He was showing positive signs of rehabilitation and reform by establishing a bakery business and a retail business, and that he was intending to attend for theological studies at the Talua Bible College on South Santo. He was also intending to start a furniture business. And he was growing a vegetable garden from which he supplied the College.
- (c) He had gone through two previous failed marriage relationships which contributed to the depression that the accused was experiencing at the time of the offending.
- (d) His guilty plea at the first instance.
- (e) His deep remorse.

The aggravating factors in this case were:-

- (1) The accused as the father had breached his position trust expected from his daughter.
- (2) He repeated the offence of incest up to seven times on different dates and occasions thus amounting to 7 different offending.
- (3) His actions caused his daughter to be pregnant.
- (4) His actions caused his daughter to be expelled from College and ruining her future education and career plans.
- (5) The accused was a former police officer who was expected to live by good example and principles.

Considering these against the mitigating factors I consider that this is a case that calls for immediate custodial sentence. Further I consider that this is not a case in which the Court should show leniency. As a deterrence to this accused and other men, I consider that this is a case in which the maximum penalty of 10 years imprisonment must be imposed on the accused.

Accordingly I sentence George Frank to a term of imprisonment of 10 years commencing on 27<sup>th</sup> March 2006. I order that the accused serve his term of imprisonment in the Luganville jail in Santo.

The only leniency the Court will show towards this accused is to allow a 1/3 reduction on the 10 year term of imprisonment due to the reconciliation and custom ceremony performed by him on 23<sup>rd</sup> November 2005. That basically reduces the term of 10 years down to 7 years and 6 months. He will serve a total term of imprisonment for 7 years and 6 months.

**PUBLISHED at Luganville this 4<sup>th</sup> day of April 2006.**

**BY THE COURT**



**OLIVER A. SAKSAK**  
**Judge.**

