

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

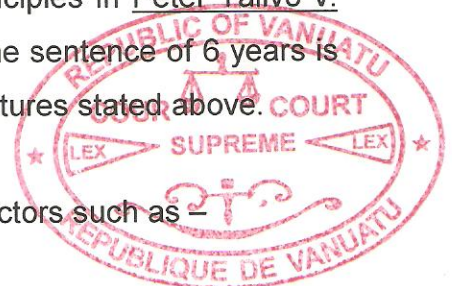
JAMESON NIALA

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mrs Kayleen Tavoia – Public Prosecutor
Mr Henzler Vira for the Defendant

SENTENCE

1. Jameson Niala, on 15th March 2010 you admitted committing incest with your 11 year old daughter. This is an offence contrary to section 95(1) of the Penal Code Act Cap. 135 which carries a maximum penalty of 10 years imprisonment.
2. The aggravating features of your case as submitted are –
 - (a) You committed a breach of trust between yourself as father and your daughter. You are a mature man of 41 years.
 - (b) The victim was your daughter of 11 years at the time of offending.
 - (c) The offence was repeated and continued over 3 years from 2004 to 2007 and extended into 2008 when sexual intercourse began to take place.
 - (d) Threats were made to the victim to:-
 - (i) Cut and stab her with a knife;
 - (j) Have a prisoner assigned to kill her and her unborn baby.
3. The appropriate sentence for you is a custodial one and the starting point is 6 years based on the sentencing principles in Peter Talivo v. Public Prosecutor and PP v. Kevin Gideon. The sentence of 6 years is increased by 1 year due to the aggravating features stated above.
4. However, I take into account your mitigating factors such as –



- (a) Your early guilty plea.
 - (b) Your previous clear record.
 - (c) Your remorse as shown by your performing a custom ceremony on 15th January 2010 in which you paid:-
 - (i) VT10.000 plus 1 mat to your brother-in-law.
 - (ii) VT2.500 to your wife.
 - (iii) VT5.000 to your brothers.
 - (iv) VT6.000 to your uncles.
 - (v) VT2.500 to the victim.
 - (vi) VT4.000 to your brother-in-law George Simo.
5. The Court recognizes and places value on your performing a customary ceremony as it reflects the true Vanuatu and Melanesian values. And for this, the Court will allow a deduction of 3 years which is quite a substantial reduction.
6. You are therefore left with a balance term of 4 years imprisonment. You have been in custody on remand since 23rd February 2010. This period shall be deducted accordingly from the 4 years imprisonment term.
7. Your imprisonment begins today 18th March 2010.
8. You will be eligible to apply for parole after you have served half of the 4 year term.
9. That is the sentence of the Court.

DATED at Luganville this 18th day of March 2010.

BY THE COURT


OLIVER A. SAKSAK
Judge

