

**PUBLIC PROSECUTOR**

**V  
ANTONIO VUTI**

**Hearing:** *19 June 2012 at Saratamata, Ambae*  
**Before:** *Justice Robert Spear*  
**Appearances:** *Parkinson Wirrick for the Public Prosecutor*  
*Erick Molbaleh for the accused*

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**SENTENCE**

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1. Antonio Vuti, you are for sentence on a charge of having unlawful sexual intercourse with a 12 year old girl. This offense occurred on the 20<sup>th</sup> July 2011 in the Nagire in North West Ambae. At that time you were 16 years of age. You pleaded guilty to this charge which was an alternative to a lead charge of sexual intercourse without consent. The prosecution elected not to proceed with that lead charge following your plea of guilty to the alternative.
2. You give your date of birth as being 9 October 1995. There is perhaps some slight uncertainty about that as the probation officer has noted in the pre-sentence report that you are 15 years of age. Be that as it may, you were either 15 or 16 years of age at that time and the complainant was just 12 years of age.
3. A summary of facts had been presented by the prosecution which has been amended significantly because it was prepared to address the lead charge as well. On 20 July 2011, the 12 year old complainant was working back home after finishing school. She was met by you on the road. You proceeded to lead her off the road and you indicated that you wanted to have sex with her. You took off her clothing, lay on top of her and you had sexual intercourse by way of penetrating her vagina with your penis. You eventually withdraw and ejaculated onto the ground.

4. The complainant felt pain as result of this sexual activity and asked you to stop. She says that you told her not to tell her parents about what had happened but, I note from Mr Molbaleh's submissions, some issues is taken with that. However, in all the circumstances, it would seem extraordinary that a 15 or 16 year boy who had just had sex with a 12 year old girl would not have told the young girl to stay quiet. However, there is no suggestion that this was accompanied by any threats, it was apparently just a request not tell to anyone.
5. You are a young man who has apparently never caused trouble before. I have an excellent pre-sentence report that been prepared today. It explains that you come from a family of 5 and you are the oldest child in the family. Your father is sick with a long term ailment that will affect the family's ability to provide for itself. You are still at school at North Ambae currently doing year 7. Your family members well respected members of the community and your father, indeed, was a leading elder of the local parish of the Catholic Church before his illness.
6. Various adult family members have expressed their shock at hearing about this offending because it appeared to them to be totally out of character. You were described by your aunt as being a very skilful, reliable and helpful boy in both the family and community. The family are willing to help in respect of any rehabilitative programme you are required to undertake.
7. You have not being able to explain why this offending occurred. You said that you were "out of your mind at that time" and that you never thought that your actions would bring you to Court and bring shame on your family. That gives a slight indication of remorse but it still does not assist the court to understand that you appreciate that what you did was wrong and the effect of your offending on the complainant.
8. This twelve year old girl has had her innocence taken from her by you. She has been and will continue to be seriously affected by this offending. Her family has been and will continue to be seriously affected by this offending. Your thoughtlessness has caused long term distress to many people including, of course, your own family. Be that as it may, you are still a young man apparently with promise and the question that I have to consider very carefully is whether I should send you to prison to mark the

seriousness of this offending or whether a sentence slightly short of immediate imprisonment would meet the ends of justice.

9. I am required by law to impose the least restrictive outcome on you and to keep you in the community if possible. I can keep you in the community because of the particular charge and because you were only 15 years of age at the time. However, this is very serious offending particularly given that the victim was only 12 years old. If the charge had been sexual intercourse without consent and/or you had been older, you would have gone directly to prison today.
10. I propose to impose a sentence of imprisonment but suspend it and couple it with community work and supervision. Mr Wirrick and Mr Molbaleh are aware that that is my current thinking and neither of them has sought to dissuade me from that cause. That certainly appears to be an appropriate sentence because it still recognises the seriousness of the offending, it recognises your youth, it recognises your cooperation with the Police and your guilty plea but it still provides a sufficient level of punishment while not destroying your hopes for a future.
11. What is important here, however, is that there is a customary reconciliation ceremony, if that can be arranged, and the only block towards that at the present time is the family of the complainant who are somewhat antagonistic to you and currently not prepared to undertake customary reconciliation. Of course, that is entirely their right. However, if in time a customary reconciliation ceremony can be arranged by your probation officer in conjunction with the local chiefs then that might be one way of introducing some hope of peace within the families.
12. You are sentenced first to 1 year's imprisonment which I suspended for a term of 2 years. This means that if you are convicted of another offence over the next two years, you will go to prison for that 1 year term and any further time that other offending requires. Mr Molbaleh will explain that to you in Bislama if you do not have a good understanding of what I have just said.
13. You are also placed under supervision for 12 months with the usual standard conditions plus a special condition that you undertake any custom reconciliation

ceremony as may be organised by your probation officer in conjunction with the local chiefs.

14. You will also carry out 150 hours of community work.
15. The probation officer has indicated that his home village is in North Ambae close to where you reside and so there is considerable hope that a customary reconciliation ceremony will eventuate in time,
16. You have 14 days to appeal this sentence if you do not accept it.

**BY THE COURT**

A handwritten signature in black ink, appearing to read 'Alfred J.', is written below the text 'BY THE COURT'. The signature is cursive and somewhat stylized.