

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Criminal Jurisdiction)

Criminal Case No. 147 of 2012

PUBLIC PROSECUTOR

-V-

ANTANAS JEAN LOUIS

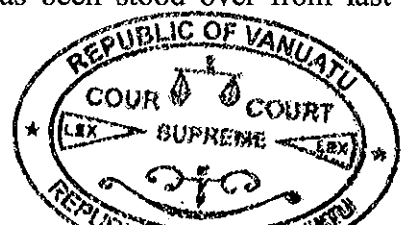
Hearing: *12 February 2013*

Before: *Justice Robert SPEAR*

Counsel: *Tristan Karae for the Public Prosecutor*
Jacob Kausiama for the Defence

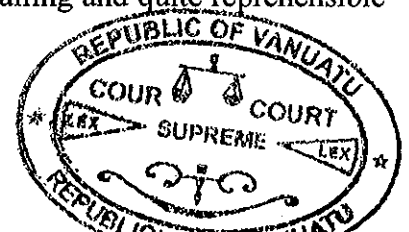
SENTENCE

1. Antanas Jean Louis you are for sentence on 1 representative charge of committing unlawful sexual intercourse. You pleaded guilty to that charge at the first reasonable opportunity. The young girl involved was your step daughter at that time and she had been your step daughter it would appear for about 4 years.
2. The summary of facts that has been presented by the prosecution is accepted by you in its entirety as accurate.
3. The pre-sentence report indicated a dispute to the matters alleged there and in particular that you denied penetration. The matter has been stood over from last



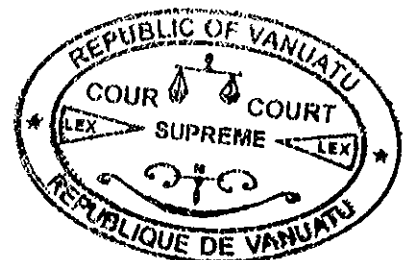
Friday until today for Mr Kausiama to discuss that matter with you so to see whether you wish to maintain that particular dispute. Mr Kausiama informed me this morning that you accept that you fully penetrated the complainant and that you accept the summary of facts in its entirety.

4. The disturbing background to this case is of course the family relationship that had been established from the time when the complainant was on 4 years of age. She looked upon you as her father or at least came to do so.
5. In 2012 you started to turn your attention to the complainant who was then 8 years of age. You would take her into the gardens knowing that you are safe from being interrupted because the complainant's mother was at home as she was pregnant to a child by you.
6. Your sexual abuse of this young girl started with you getting her to hold your penis and quickly progressed to full sexual intercourse through to the point of ejaculation. On occasions, you would threaten the complainant with consequences if she told her mother and on occasions you attempted to buy her silence by offering her money. One of the difficulties faced by this complainant was that she used to arrive back at the home in a tearful state. When her mother asked her why she was crying she would say that you had smacked her for not helping to carry the food home.
7. This was repetitive sexual abuse with the sexual intercourse occurring regularly over a period of months. It got to the stage where you relied upon the complainant coming home straight from school so that you could have sex with her and if she did not do so then you would smack her. Clearly, you were using her as a sexual tool, a sexual doll and she did not know how to deal with the problems that you presented to her.
8. Matters came to a head on 14 October 2012 when fortunately the mother became aware that you had had sex with her daughter in the home. You admitted to the mother about what you had done.
9. You pleaded guilty to this charge at the first reasonable opportunity and you are entitled to credit for that. However this was simply appalling and quite reprehensible

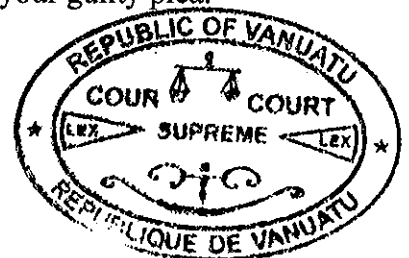


conduct on your part. It involved a shocking breach of trust and it has left a young girl now 9 years of age damaged in a way that will mean her life will be different to what it would otherwise have been. This repetitive sexual abuse occurred within a regime of violence because of the threats and because of the physical abuse as well. It is simply appalling conduct that must be condemned by the Court with a condign sentence.

10. What is important is that this sentence not only tells you but sends the message out to the general community that the Courts will be consistent and they will be clear in their condemnation of the sexual abuse of the young and vulnerable members of the community. You had a responsibility as her step father to keep her safe and you failed her so significantly. The sentence must reflect society's outrage at this appalling conduct.
11. This charge is one of committing unlawful sexual intercourse. It is a charge that carries a maximum penalty of 14 years imprisonment. I am completely at a loss to understand why you are charged with unlawful sexual intercourse when the victim in this case was only 8 years of age. Surely, it could not be thought that an 8 year old girl was capable of giving a true consent to a person over 4 times her age and who was in the role of step father; it is simply ridiculous.
12. Be that as it may, this is the charge that you faced and to which you have pleaded guilty. So, you are to be sentenced against the maximum penalty of 14 years rather than life imprisonment which should have been the case. However your offending is at the most serious end of the scale of seriousness for this type of offending. In my view it justifies a starting point to be adopted of 10 years imprisonment.
13. I look at the pre-sentence report and I notice that the recommendation is for a suspended term of imprisonment. That is simply unacceptable. Those who commit sexual offending against young children will go to prison and there can be and must be no leniency in that respect. My concern is that the recommendation suggests that there is a complete misunderstanding or lack of understanding on the part of a probation officer about what the sentencing approach should be.



14. You say that you are remorseful but no-where in the pre-sentence report can I find any indication that you have any empathy for this young girl and the harm that you have done. I suspect that you are more remorseful for the predicament that you are in and what is ahead of you. But nowhere does the probation officer say that you are troubled by the damage that you have caused this young girl. So I do not consider that you have remorse that should count in respect of sentence.
15. You have offered through your family to be involved in a custom reconciliation ceremony. The complainant's family has, however, told you that the matter is now with the Courts and they prefer to allow that to happen. That is a perfectly understandable view. It is often the case that custom reconciliation is required to mend relations between adult members of the family but clearly the wounds are far too deep and exposed for that to happen at this stage.
16. The only matter that you have going for you is that you have no previous convictions. If you had, that would have simply aggravated your position for sentencing purposes. However, the fact that you have no previous convictions is simply a neutral sentencing factor and it is not to be taken into account by way of a reduction to the sentence to be imposed. To do so would give you a double count for an absence of previous convictions. There is nothing to say that you have been an outstanding member of the community such that you could call upon that credit when it comes to assessing the appropriate penalty.
17. The only thing you had going for you is that you pleaded guilty at an early time. You also admitted the offending when first approached. That, however, needs to be considered alongside the attempt by you late last week with the probation officer to take issue with the substance of the summary of facts. You told the probation officer that there was no penetration and that sexual contact occurred on only one occasion where you placed your penis beside her vagina. Fortunately you realized now that your jeopardy may have been indeed enhanced if a disputed facts hearing had been conducted and you now accept fully that the summary of facts is accurate.
18. Be that as it may, I will allow you a full one third credit for your guilty plea.



19. You are sentenced to imprisonment for a term of 6 years and 8 months which will be deemed to have commenced on 1 November 2012 when you first went into custody.
20. You have 14 days to appeal this sentence if you do not accept it.

BY THE COURT

