

PUBLIC PROSECUTOR VS- TIMOTHY ULAS

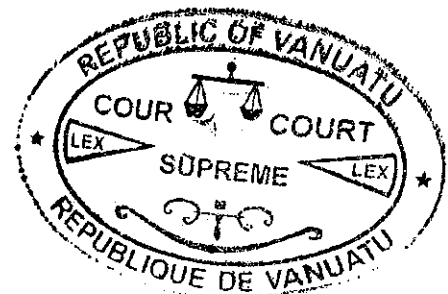
Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *Ken Massing for Public Prosecutor
Gregory Takau for Defendant*

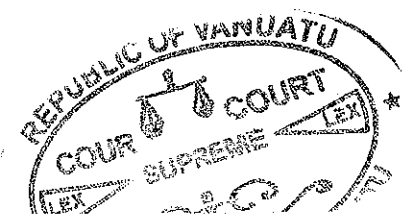
Date of Re-arraignment: *19th June 2018*
Date of Sentence: *20th June 2018*

SENTENCE

1. Timothy Ulas on 4th June 2018 you initially pleaded not guilty to 4 counts of sexual intercourse without consent (Counts 1, 2, 3 and 4) and to 4 others but alternative counts of incest (Counts 5, 6, 7, and 8).
2. This case was fixed for trial before me on 19th June 2018. However you sought leave through your lawyer to be re-arraigned on all those 8 charges and leave was granted. You then entered not-guilty pleas through your lawyer to the 4 counts of sexual intercourse without consent (Counts 1-4), and to one alternative charge of incest (Count 5). The Prosecution offered no evidence in respect of these charges and nolle prosequi were entered under section 29 of the Criminal Procedure Code Act [CAP. 136] (the CPC Act). You were then acquitted of these 5 charges.
3. You however entered guilty pleas to the 3 remaining alternative charges of incest in Counts 6, 7, and 8. And for these, the Court entered convictions against you respectively.



4. The offence of incest is a serious criminal offence Parliament in 2016 increased the penalty for this offence under section 95 (1) (a) from 10 years to 15 years imprisonment to reflect the seriousness of this offence.
5. What you did is a disgrace to yourself and your family. The victim is your very own biological daughter born on 29th February 2000. That put her age at 15 years old when the offence started to occur in 2015. She was attending College de Santo in 2015 when the first incident of incest occurred. It was on a Friday afternoon when she returned home for lunch. You were alone in the house. She went to have a bath and went inside to change. She only had a towel around her. You followed her in and held her belly. You asked her to remove her towel. She was ashamed to do so as she was naked. You pulled her into her brother's room. Then you removed your trousers and had sexual intercourse with her and ejaculated.
6. In 2016 you subjected the victim to doing so much household chores after you demanded sex from her and she refused. You asked her a second time and she submitted to your demands. She was sleeping in her room when you approached her and demanded that she remove her clothes. You then removed your clothes and lay on top of her and penetrated her with your penis. You ejaculated and then left.
7. In 2017 sex happened for the final time when the victim was sleeping. It was a Friday night. You returned home drunk and knocked on her door. When she opened the door you entered, removed her clothes and yours and had full sexual intercourse with her. In the course of the intercourse the victim's mother arrived and saw you having sex with. The victim cried and told her mother that you had forced her into having sex.



She felt some pain and saw some blood after the intercourse. She was hurtful about it all.

8. The offences were repeated. There was a certain degree of planning. There was a serious breach of trust. And there was a great disparity of age between you being 41 years old in 2015 and she being 15. You put the victim to great risk of teenage pregnancy and sexually transmitted diseases as sexual intercourse was not protected by use of condoms. The girl was under your care and protection and as her father you abused that trust and parental responsibility.

These are the aggravating features of your offendings.

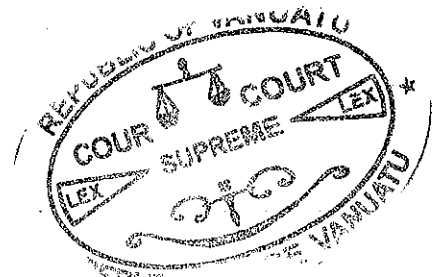
9. The principle that men who take advantage sexually of young girls forfeit the right to remain in the community is well settled and established in the classic case of PP.v. Gideon [200] VUCA 7.

10. It is also well established in PP.v. Bae [2003] VUCA 14 that parents who use their children for sexual gratification will go to prison.

11. This Court is bound by these Court of Appeal cases. Therefore the only appropriate sentence for you will be a custodial sentence. Your case is different from the cases of PP.v. Wiguet[2018] VUSC 47 and PP.v. Tu [2016] VUSC 20. Both cases were more serious in their facts from your case.

12. The Court must impose a sentence that will serve the following purposes.

- a) Mark the seriousness of the offendings,
- b) Mark public condemnation of the offender's actions,



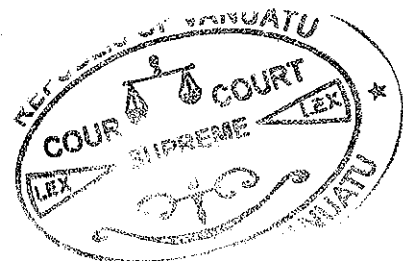
- c) Mark deterrence for the offender and other likeminded persons.
- d) Mark a protection for the young, the weak and the vulnerable members of our society,
and
- e) To punish the offender adequately.

13. Considering the seriousness of the offences committed and the aggravating features the Court imposes the following penalties-

- a) For Incest in 2015, Count 6- 7 years imprisonment as the starting sentence with no uplift.
- b) For Incest in 2016, Count 7- 7 years imprisonment as starting sentence with no uplift but it will run concurrent to the 7 years imprisonment for Count 6.
- c) For Incest in 2017, Count 8, 7 years imprisonment as starting sentence with no uplift but will run concurrent also to the 7 years imprisonment for Counts 6 and 7.

14. In total you are convicted and sentenced to 7 years imprisonment as a concurrent sentence for all the three charges.

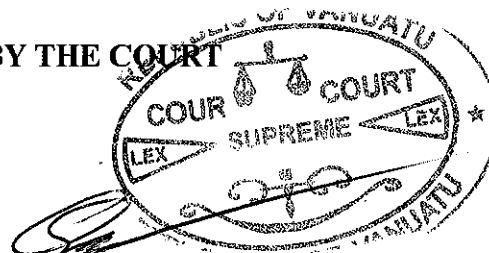
15. In mitigation, I accept that you are entitled to reductions for good cooperation with the police during investigations and your remorse and contrition, with the substantial custom reconciliation ceremony. Your sentence of 7 years is reduced by 2 years for these bringing it down to 5 years imprisonment.



16. You are entitled to a 1/3 reduction on the 5 year sentence which is 1 year 8 months.
Your balance is therefore 3 years and 4 months.
17. Your end sentence is therefore 3 years and 4 months imprisonment.
18. Your sentence is backdated to 13th March 2018 when you were first remanded in custody.
19. That is the sentence of the Court. You have a right of appeal against this sentence within 14 days if you are not happy with it, but you must begin to serve your sentence today.

DATED at Luganville this 20th day of June 2018

BY THE COURT



OLIVER.A.SAKSAK

Judge