

PUBLIC PROSECUTOR

v

JOHN CHRISTIN

Date of Sentence: 26 February 2020
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr K. Massing
Defendant – Mr L. Moli

SENTENCE

A. Introduction

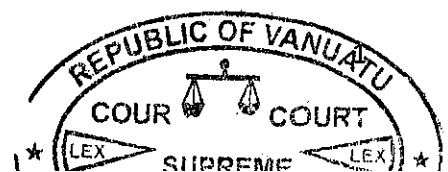
1. This matter was set down for trial. On the morning of the trial, Prosecution filed an Amended Information and Amended summary of facts adding one charge of Act of indecency without consent. Mr Christin pleaded guilty and accepted the amended summary of facts in relation to that charge. The maximum sentence available for this offence is 7 years' imprisonment.
2. The Prosecution entered *nolle prosequi* on the charge of sexual intercourse without consent and he was accordingly discharged in respect of that charge.

B. Facts

3. Mr Christin was an untrained teacher at Ambaebulu Primary School and the complainant Ms S a Year 9 student at Ambaebulu Junior Secondary School. He was 19 years old and she was 16 years old. Mr Christin hosted his birthday party at his residence and sent a message to Ms S to attend the party. When they met, Mr Christin inserted his hand into her skirt and touched her vagina. At the same time he sucked her breast. These acts were performed without Ms S' consent.

C. Offending Starting Point

4. It is necessary to consider the culpability of the offending. A number of aggravating factors stand out, as follows.
5. The complainant was a student at the school that Mr Christin was serving at as an untrained teacher. She referred to him as "Mr John". His offending against her constituted a breach of trust. The offending occurred at school, where Ms S was entitled to feel safe and protected. Mr Christin took advantage of a vulnerable person under his care. The offending was premeditated in that Mr Christin sent a message to Ms S inviting her to his birthday party but then committed the offending on their meeting. There were two different acts of indecency



involved – the touching of the vagina and sucking of breast. The consequences on Ms S of the trauma from Mr Christin's offending and her feeling ashamed are of particular seriousness.

6. When I regard the maximum sentence of 7 years' imprisonment and the cases counsel referred me to of *Public Prosecutor v Frazer Aru Wenu*; Criminal Appeal Case No. 11 of 2015, *Public Prosecutor v Livae* [2014] VUSC 126 and *Public Prosecutor v Lopez* [2019] VUSC 136, I consider that the aggravating factors set out above require a starting point of 1 year 9 months' imprisonment.

D. Personal Factors

7. Mr Christin completed Year 13 at Malapoa College the year before he took up service as an untrained teacher at Ambaebulu Primary School. He is currently unemployed but undertaking University of the South Pacific studies at Santo. He has been accepted for entry into the Police College on 1 March 2020. He is still dependent on his parents. He does casual labour at the Unity Shop in Luganville and mows lawns to support him in his University studies.
8. There are no aggravating factors personal to Mr Christin.
9. In terms of mitigating factors, Mr Christin is entitled to call upon the fact that he has no prior convictions. He cooperated with the Police and admitted his offending. He is remorseful and has performed a customary reconciliation ceremony giving VT20,000 to the Ambaebulu School Council and VT10,000 and 4 Ambae mats (bwan vivivi) to Ms S and her family. The Correctional Services Officer stated that Mr Christin has realised his mistake and regretted his action. He does not want to be involved in such worthless activity again in the future. He states that his ambition is to complete his studies and support his parents and family. Since Mr Christin's release on bail on 16 October 2017, he has complied with his bail conditions including not committing another offence and signing at the Police Station every week. Due to the delay in the trial of this matter, Mr Christin has lost opportunities to teach at Santo East Primary School and to take up a scholarship to study in Fiji.
10. Those factors warrant a deduction of six months from the start point.

E. Deduction for Guilty Plea

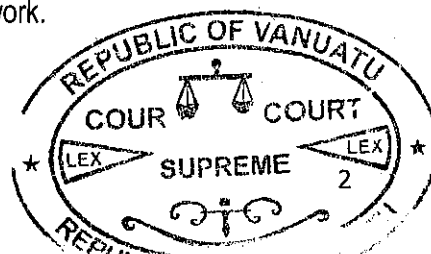
11. The guilty plea was entered at the first opportunity. He is therefore entitled to the maximum discount available for a prompt plea of one third.
12. I also take into account that Mr Christin has already spent time in custody prior to sentence totalling 1 month, 2 weeks and 4 days in custody at the Correctional Centre in Luganville, Santo.

G. Sentence

13. Taking all of those matters into account, the end sentence that must be imposed is one of 8 months and 1 week imprisonment.

H. Suspended Sentence

14. In view of the circumstances and in particular the nature of the crime, and the character of Mr Christin, I exercise my discretion to suspend the sentence imposed today for a period of 1 year. In addition, I impose a sentence of 50 hours' community work.



15. Mr Christin has 14 days to appeal this sentence if he so chooses.

**DATED at Saratamata, Ambae this 26th day of February 2020
BY THE COURT**

V.M. Trief

V.M. Trief
Judge

