

**PUBLIC PROSECUTOR**

**v**

**JONAS GEORGE**

Date: 13 July 2020  
Before: Justice V.M. Trief  
Counsel: Public Prosecutor – Mr P. Toaliu  
Defendant – Mrs K. Karu

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**SENTENCE**

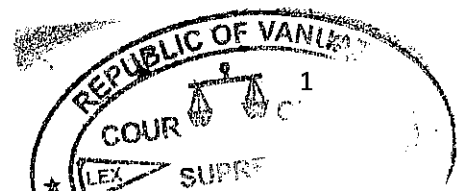
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A. Introduction

1. Mr George pleaded guilty to one representative charge of unlawful sexual intercourse with a child under the age of 13. The maximum sentence for this offence is 14 years imprisonment, the maximum provided in the *Penal Code* at the time that this offending occurred in 2014.

B. Facts

2. In July 2014, Mr George sent a message to the complainant Ms M to go and see him. She did. He told her to follow him down to the beach at Blacksands area on Efate.
3. At the beach, they went to a burao tree. Mr George told her to remove her clothes. Ms M removed her trousers and underwear.
4. Mr George then told her to lie down on the grass. She did so. He removed his trousers and got on top of Ms M. He had sexual intercourse with her by way of penile penetration into her vagina. She felt pain during the intercourse. The intercourse did not last long. They put their clothes back on and went home.
5. In the week of 30 July 2014, Mr George again had penile intercourse with Ms M. This happened behind the MCI compound at Blacksands area.



6. Ms M was just 12 years old. Mr George was 14 years old.

C. Sentence Start Point

7. The aggravating factors of the offending are:

- The offending was planned – Mr George sent for Ms M to come and see him, and then led her to the beach away from other people where he proceeded to have sexual intercourse with her.
- The harm suffered by Ms M – she felt pain during the sexual intercourse with Mr George.
- The offending involved unprotected sex which exposed Ms M to the risk of pregnancy and/or sexually transmitted infection.
- This was repeated offending with 2 occurrences of sexual intercourse.

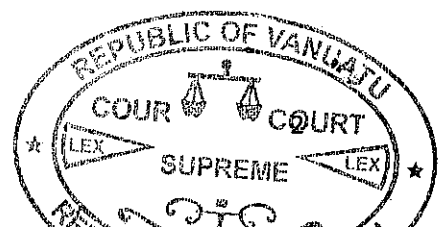
8. I consider that the factors set out above require a sentence start point of 4 years imprisonment.

D. Personal Factors

9. Mr George is a first time offender. However, he is currently serving a sentence of 5 years 7 months imprisonment for subsequent sexual intercourse without consent against the same complainant for offending in February 2018.
10. This matter was first reported to the Police on 21 September 2014. The six year delay warrants a deduction of 6 months imprisonment.
11. The pre-sentence writer reports that a custom reconciliation ceremony has been performed with Ms M and her family involving VT10,000 cash, one pig, 1 kava stem and a mat. Mr George is still a young man with some prospects of reformation and rehabilitation. For his personal factors particularly his youth and the fact he was a first time offender, I reduce Mr George's sentence by a further 24 months imprisonment.
12. Mr George told the pre-sentence report writer that he and Ms M had been in a relationship for several months and he was not aware that sexual intercourse with a child under 13 was an offence. Young people need to be aware that this is an offence so as not to end up in a situation like this case.

E. Deduction for Guilty Plea

13. Mr George pleaded guilty at the first opportunity. He has spared Ms M the ordeal of giving evidence at a trial. Given the strength of the Prosecution case, I deduct a further 25%.



F. End Sentence

14. An important principle of sentencing is to incarcerate for the least period possible, having regard to all the circumstances. A sentence should not be crushing; and the possibility of rehabilitation must always be kept in mind. I have taken this into account with the deduction for Mr George's personal factors, particularly his youth.
15. However, the following sentencing principles are equally important - holding Mr George accountable for his conduct, taking into account the effects of his offending on the complainant, protecting the community, to denounce the criminal conduct, and to deter him and others from acting in this manner in future.
16. Considering all those matters, the end sentence that I impose on Mr George is 12 months imprisonment. This is to be served consecutively to the sentence that Mr George is already serving. Therefore Mr George is to serve a combined sentence of 6 years 7 months imprisonment.
17. It is wholly inappropriate to suspend any part of the sentence imposed.
18. Mr George has 14 days to appeal this sentence if he disagrees with it.
19. The name and details leading to the identification of Ms M are permanently suppressed.

**DATED at Port Vila this 13<sup>th</sup> day of July 2020  
BY THE COURT**

  
.....  
Viran Molisa Trief  
Judge

