

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

Criminal
Case No. 20/330 SC/CRML

BETWEEN: Public Prosecutor

AND: Robert Willie
Defendant

Date: 13 March 2020
By: Justice G.A. Andrée Wiltens
Counsel: Mr D. Boe for the Public Prosecutor
Mr J. Garae for the Defendant

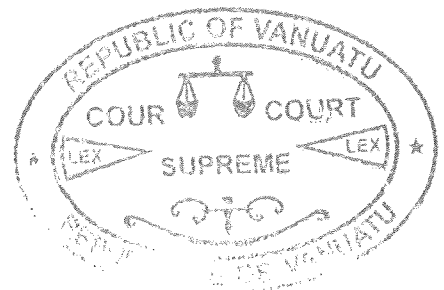
SENTENCE

A. Introduction

1. Mr Willie pleaded guilty to one charge of sexual intercourse without consent with a child under 13 years of age. The maximum sentence for that offence is a term of 14 years imprisonment. It is a very serious offence.

B. Facts

2. Mr Willie went to the home of SU at 10pm on 28 December 2019. She was asleep at the time, but when he invited her to follow him to an yard she went willingly. There they had consensual sexual intercourse.



3. SU was then only 12 years of age, and in Class 4 at her local school. She was not legally capable to consenting to sexual intercourse.
4. When interviewed, Mr Willie admitted the offending.

C. Aggravating/Mitigating Factors to the Offending

5. There are a no aggravating or mitigating factors to the offending.
6. The start point that I adopt as appropriate for this offending and for Mr Willie's criminal culpability is 3 years imprisonment.

D. Personal Factors

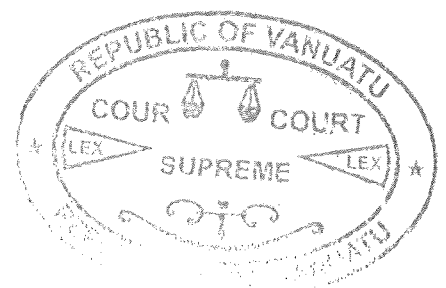
7. Mr Willie in only 19 years old currently – he was 18 at the time of the offending. He is studying at the maritime College. He has no previous convictions and is willing to participate in a custom reconciliation ceremony.
8. There needs to be a discrete discount for Mr Willie's youth. He was 18 at the time and he is still studying. I accept he is still somewhat immature. The prospects of reparation are good. For those reasons I reduce the sentence start point by 12 months.
9. I can additionally take into account Mr Willie's plea, which was given at the earliest possible opportunity. As well, the plea has meant that the complainant did not have to give evidence against him in front of a number of strangers and have to relate embarrassing details. Accordingly, I allow a discount for that and for the saving of Court time and expense as a result of the guilty plea of 33.3%.

E. Sentence

10. The end sentence that I impose on Mr Willie is one of 16 months imprisonment.

F. Suspension

11. The law provides a discretion to suspend all or part of the sentence, pursuant to section 57 of the Penal Code, namely where it is not appropriate to make an offender suffer immediate imprisonment "... (i) in view of the circumstances; and (ii) in particular the nature of the crime; and (iii) the character of the offender".
12. I have regard to Mr Willie's youth, his current situation in that he continues to study, his strong prospects for rehabilitation, plus the fact that he has no previous convictions and has spent 2 months in custody prior to today in respect of this charge. All those factors convince me to exercise my discretion and suspend the whole of the sentence for 2 years.



13. In addition Mr Willie is to undergo 12 months supervision.


G. Conclusion

14. I have used the complainant's initials in this decision. Her name and all details leading to her identification are permanently suppressed.

15. Mr Willie has 14 days in which to appeal this sentence if he does agree with it.

DATED at Luganville this 13th day of March 2020

BY THE COURT


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Justice G.A. Andrée Wiltens

