

PUBLIC PROSECUTOR

v

BERNARD SANDY

Date: 24 May 2021  
Before: Justice V.M. Trief  
Counsel: Public Prosecutor – Ms M. Taiki  
Defendant – Mr J. Garae

---

SENTENCE

---

A. Introduction

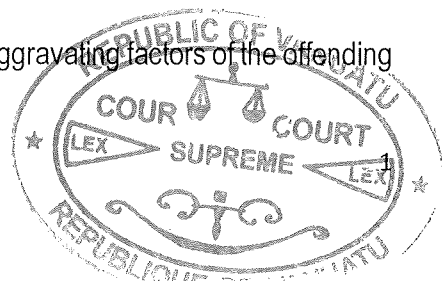
1. Mr Sandy pleaded guilty to a representative charge of incest.

B. Facts

2. The complainant SA is Mr Sandy's adopted daughter. She was 19 years old when the offending occurred.
3. In March 2014, on two occasions at night time, Mr Sandy approached SA and had penile sexual intercourse with her. The first time that happened, Mr Sandy had taken hold of SA's neck before having sexual intercourse with her. Mr Sandy's wife was away for the night on both occasions. SA was afraid to report Mr Sandy because he threatened to beat her up if she did. She only felt safe to report him when he came to Santo. When SA discovered that she was no longer menstruating, Mr Sandy gave her a custom leaf to drink and later saw her period again. Mr Sandy made admissions to the Police.

C. Sentence Start Point and Personal Factors

4. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
5. The maximum sentence provided in paras 95(1)(a) and (b) of the *Penal Code* [CAP. 135] is 10 years imprisonment.
6. There are no mitigating aspects to this offending. The aggravating factors of the offending include:



- Serious breach of trust;
  - The offending occurred within SA's home;
  - The offending was repeated;
  - The use of violence in holding SA's neck before having sexual intercourse with her and the threat of violence to stop her from reporting Mr Sandy;
  - The 29-year age differential and SA was a young victim;
  - The offending was planned, occurring when Mr Sandy's wife was away from home and at night when SA was asleep in her room; and
  - Mr Sandy exposed SL to the risk of sexually transmitted infection and pregnancy.
7. The factors set out above require a sentence start point of 7 years imprisonment. Mr Sandy is currently serving a sentence of imprisonment for sexual offending against his biological daughter. An uplift of 6 months imprisonment is added to the start point.
8. I reduce the sentence by 33% for Mr Sandy's early guilty plea.
9. Mr Sandy is 36 years old. He is married and has two daughters and three sons. He has sexually offended against both his daughters. Mr Sandy stated to the pre-sentence report writer that he has performed a custom reconciliation ceremony to SA and their family involving 1 pig, 5 red mats with a value of VT5,000 each and food crops including taro, yam and bananas. I deduct 2 months for Mr Sandy's personal factors.

D. End Sentence

10. Mr Sandy is sentenced to 4 years 9 months imprisonment. The sentence is back-dated to run from 3 September 2019 when Mr Sandy was taken into custody.
11. The sentence is imposed to deter Mr Sandy and others from such offending, to protect the community, to denounce such criminal conduct against young girls and against the values of society, and to hold Mr Sandy accountable for his criminal conduct.
12. The end sentence will not be suspended. An immediate custodial sentence must be imposed for this serious sexual offending by a parent against his own child: *Public Prosecutor v Gideon* [2002] VUCA 7 and *Public Prosecutor v Bae* [2003] VUCA 14.
13. Mr Sandy has 14 days to appeal the sentence.
14. All details leading to the identification of SA are permanently suppressed.

DATED at Luganville this 24<sup>th</sup> day of May 2021

BY THE COURT

  
 Viran Molisa Trief  
 Judge

