

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

Criminal
Case No. 22/1559 SC/CRML

PUBLIC PROSECUTOR

v

KENSLY STEVEN

Date: 27 April 2023
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr L. Young
Defendant – Mr L. Moli

SENTENCE

A. Introduction

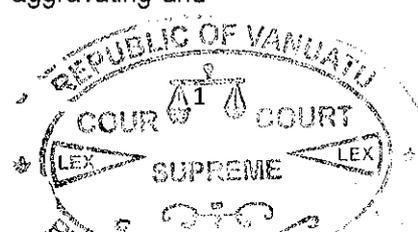
1. The Defendant Kensly Steven was convicted after trial of act of indecency with a young person. The complainant SL (name suppressed) is Mr Steven's biological daughter.

B. Facts

2. At the time of the offending, SL was under 15 years old.
3. On two occasions in 2019, SL visited her father Mr Steven at her grandmother's invitation. He lived with her grandmother. On both occasions, her father touched her breasts with his hands, through her clothes, for a short time. He did so deliberately. A father touching a young daughter's breasts, albeit over clothing, is clearly indecent. SL did not like him doing that. This made her cry on the second occasion. She did not tell anyone about her father doing so until 2022 when she told her grandfather Bruno Leingkone.

C. Sentence Start Point

4. The sentence start point is assessed having regard to the offending, its aggravating and mitigating features and the maximum sentence set by Parliament.



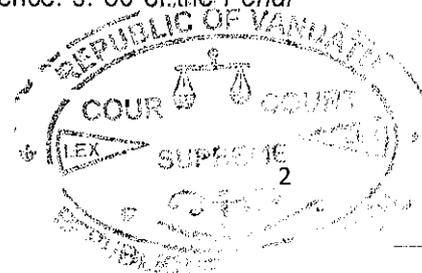
5. The maximum sentence provided in s. 98A of the *Penal Code* [CAP. 135] for indecent act upon, or in the presence of, another person under the age of 15 is 10 years imprisonment.
6. There are no mitigating factors related to the offending however it is aggravated by the following:
 - Breach of trust;
 - 16-year age differential;
 - The offending occurred twice; and
 - The offending occurred at the defendant's house where the complainant should have been able to feel safe and protected.
7. Given the factors set out above, I adopt a sentence start point of 2 years imprisonment.

D. Personal Factors

8. Mr Steven is 35 years old. He is single and unemployed. He has previously worked in construction. He has no previous convictions.
9. To the pre-sentence report writer, Mr Steven denied that SL was his daughter and denied that he committed the offending. None of this demonstrates remorse on Mr Steven's part or that he has taken responsibility for his offending. No custom reconciliation ceremony has been performed and Mr Steven has no plans to.
10. A month is deducted from the sentence start point for Mr Steven's personal factors.
11. Mr Steven served the period 14 June 2022 to 1 December 2022 in custody – effectively 11 months imprisonment. A further 11 months is deducted from the sentence start point.

E. End Sentence

12. The end sentence imposed is 1 year imprisonment.
13. The sentence is imposed to denounce such criminal conduct against young girls and against the values of society, to deter Mr Steven and others from such offending and to hold Mr Steven accountable for his criminal conduct.
14. The end sentence will not be suspended. No exceptional circumstances are shown to warrant suspension.
15. This sentence of imprisonment may not be enforced until the time of appeal against sentence has expired or Mr Steven earlier elects to begin serving his sentence: s. 50 of the *Penal Code*.
16. Mr Steven has 14 days to appeal the sentence.



17. All details leading to the identification of SL are permanently suppressed.

**DATED at Port Vila this 27th day of April 2023
BY THE COURT**

VM Trief
Justice Viran Molisa Trief

