

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

**Criminal**  
**Case No. 25/1631 SC/CRML**

**BETWEEN: Public Prosecutor**

**Kalmalau Sope**  
**AND: Defendant**

**Coram:** *Justice Dudley Aru*  
**Counsel:** *Ms. M. Tasso for the Public Prosecutor*  
*Mrs. C. Dehinavanua for the Defendant*

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**SENTENCE**

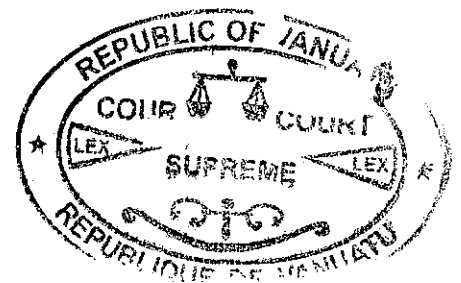
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**Introduction**

1. Mr Kalmalau Sope you are in Court today to receive your sentence. You pleaded guilty to one (1) count of acts of indecency with a young person contrary to s 98 A of the Penal Code. You are convicted on your guilty plea.

**Facts**

2. The complainant is a 11-year-old boy attending Pango Central School and lives with his parents at Pango Village. You are 71 years old and you also live at Pango village and are neighbours with the complainant and his family.
3. Sometime in March 2024, in the morning, the complainant's mother sent the complainant to go and wait on the main road to buy bread from the bread delivery bus. The complainant waited but the bus did not arrive as usual. Whilst the complainant was still standing alongside the main road, you called out to him to come and see you at your house. At that time, you were only wearing your pants without any shirt. When the complainant arrived at your house you told him to get something from the kitchen and he obeyed and went to the kitchen. While he was there, you followed him into the kitchen. The complainant told you he could not find what you sent him for.
4. At that same instant you reached for the complainant and pulled him closer to you and removed his pants. You also removed your pants at the same time exposing your penis then attempting to insert your penis into the complainant's anus. The complainant reacted and escaped. You tried to close the main door, but you were late as the complainant was already outside.
5. The complainant ran to his mother but did not tell her about the incident, He kept it to himself until this year 2025, when he disclosed it to a close friend of his. The matter was then reported to the Police, and you were later arrested.

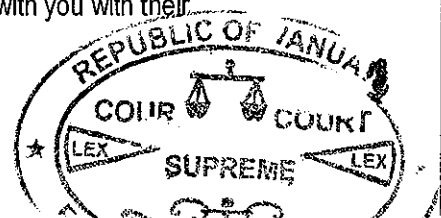


### Sentence start point

6. The offence of acts of indecency with a young person is punishable by a maximum penalty of 10 years imprisonment. I accept that the aggravating factors of the offending are as follows:-
  - There is a breach of trust as you and the complainant are neighbours;
  - There is an age disparity as you were 71 years of age and the complainant was 11 years;
  - There was some planning involved on your part; and
  - You took advantage of the complainant's young age.
7. There are no mitigating factors of the offending.
8. The prosecution referred to **PP v Gideon** [2002] VUCA 7 and **PP v Ali August** [2000] VUCA 29 as guideline judgments. For purposes of comparison the prosecution referred firstly to **PP v Alick Pierre** [2003] VUSC 718. The case involved touching of the vagina of a 7-year-old girl and the starting point adopted was 3 years imprisonment. Next is **PP v Fred Emmil** [2021] VUSC 470. That case also involves the touching of a 7-year-old girl's vagina over clothing. The starting point of sentence was 3 years and 4 months imprisonment. The final case referred to was **PP v Timothy Steel** [2020] VUSC 2334. The victim was 11 years old and the defendant was 60 years old. The offending involved the showing of pictures of nudity to the victim, touching of the victim's breasts and exposing of the penis to the victim. The starting point of sentence was 4 years and 6 months imprisonment.
9. The defendant on the other hand referred to **PP v Tari** [2023] VUSC 170. The case involved two victims, an 11-year-old and a 14-year-old girl. The offending involved the exposing of the penis to the 11-year-old girl and the touching and placing of the penis on the 14-year-old girl's vagina including licking of the vagina and breasts and masturbation of the penis until ejaculation whilst touching the vagina. The starting point of sentence was 4 years 6 months imprisonment and after appropriate deductions the end sentence imposed was 2 years and 2 months imprisonment which was suspended for 2 years and 2 months with 12 months supervision.
10. The defendant accepts that *Tari's* case should be distinguished from the current case but maintained that the current case still falls at the lower end of the scale for sexual abuse cases. In support of that submission the defendant referred to what the Court of Appeal said in **PP v Daniel** [2024] VUCA 55 and submitted that acts of indecency are generally a less serious form of abuse than rape and unlawful sexual intercourse and the conduct which may constitute indecent acts can vary greatly both in form and seriousness. It was further submitted that the end sentence should be suspended.
11. Considering the above submissions, I adopt a starting point of 3 years imprisonment.

### Guilty plea and Personal factors

12. You entered a guilty plea to the charge at the earliest opportunity therefore the sentence start point will be discounted by 30%.
13. A Pre-sentence Report was filed as directed. The report states that you are a first-time offender and now you are 72 years of age. You reside with your wife at Pango village. As you have no biological children of your own you adopted a son and daughter who also live with you with their



children. You completed your education at primary school level at the Ecole Publique de Centre Ville. You were previously employed in the maritime sector as Chief Cook on board vessels from 1973 until your retirement in 2000. You plan to invest in poultry farming to support your grandchildren.

14. Your chief speaks highly of you as an essential member of the community where you help the community with your cooking skills at community events such as weddings and carrying out responsibilities assigned by the chief.
15. For your personal factors I deduct 6 months. As you were remanded into custody since 8 April 2025, a further 3 months are deducted for time spent in pre custody.

#### End sentence

16. I sentence you to an end sentence of 16 months imprisonment. Next, I consider whether I should exercise my discretion and suspend your sentence. In doing so, s 57 of the Penal Code requires that I consider the circumstances, in particular the nature of the crime and the character of the offender. The circumstances of this case are that the complainant was on the main road to buy bread from the bread delivery bust. When the bus was delayed, you called the complainant to your house where the offending occurred. As a mature elderly person, you should have known better. On the other hand, you have lived for 72 years without offending and have done good works for your community. In addition, you look after your wife and your two adopted children and your grandchildren. The nature of the crime is serious but the indecency charge involved no contact.
17. On balance I consider it appropriate to suspend your sentence. Your sentence is suspended for a period of 2 years. Should you reoffend during this period you will be arrested to serve your full sentence in custody.
18. In addition, I also order that you perform 70 hours of community work and be under supervision for a period of 12 months to undertake rehabilitation programs in relation to your offending.
19. You have 14 days to appeal if you are not satisfied with the decision.

DATED at Port Vila this 29<sup>th</sup> day of July, 2025

BY THE COURT

Dudley Aru  
Judge

