

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. 359 OF 2019**

**BETWEEN**            :            **STATE**

**AND**                    :            **TEVITA KUNAWAVE**

**Counsel**                :            Ms E Rice for the State  
                                  Mr T Lee & Mr W Navuni for the Accused

**Date of Hearing**        :            **3 - 5 November, 9 – 12, 23 - 24 November 2020**

**Date of Summing Up:**       **26 November 2020**

**Date of Judgment**    :            **26 November 2020**

**Date of Sentence:**       **27 November 2020**

**SENTENCE**

- [1] Following a trial, the offender was found guilty of murder of his 4-month old daughter. Murder is punishable by life imprisonment. The only discretion given to the court is in relation to the minimum term that the offender must serve before he may be considered for a pardon.
- [2] The child victim was killed in the course of an attack by the offender on his wife. The victim was hit with a concrete block that the offender aimed at his wife with either an intention to cause her death or with the knowledge of a significant risk that death will occur. The concrete block instead hit the child's head causing multiple fracture and internal bleeding. The child died immediately after the impact. The primary cause of death was a brain injury as a result of a blunt force trauma.
- [3] I accept that the killing was not premeditated, but the violence that the offender inflicted on his wife was fueled by alcohol and bad temper. The offender was supposed to protect

his wife from harm. Instead he breached her trust and caused significant emotional pain to her. His actions has led to a mother losing her child.

- [4] The offender is 28 years old. He is a trained military officer. At the time of the offence he had an unblemished character. Immediately after the incident he realized the gravity of his action and apologized to his wife. He offered to plead guilty to manslaughter but that offer of plea was not accepted by the State. During the trial, he retracted from his earlier position and suggested that he was not responsible for the death of his daughter. But, when he gave evidence he apologized to anyone he had caused pain through his actions.
- [5] Although there is some remorse by the offender but I am not sure whether the remorse is genuine. Any remorse after the finding of guilt cannot be taken as genuine. The greatest regret for him is that he is responsible for the death of his daughter. As a father he will have to bear that regret for the rest of his life.
- [6] In sentencing a domestic violence offender, specific and general deterrence are important factors, together with the requirement of powerful denunciation by the community of such conduct and the need for protection of the community. Recognition of the harm done to the victim and the community as a result of crimes of domestic violence is important. The courts must make clear by their sentences that acts of violence perpetrated by men on their spouses or their young children will not be tolerated in our society, and that men who commits such crimes against women or children will be punished severely.
- [7] For these reasons, I have decided to fix a minimum term. A minimum term means that the offender cannot be eligible for any form of release until he had served that term.
- [8] The offender is sentenced to life imprisonment with a term of 14 years to serve before a release may be considered.



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**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Office of the Director of Public Prosecutions for the State

Legal Aid Commission for the Accused