

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. HAC 136 OF 2021**

**BETWEEN** : **STATE**

**AND** : **ERONI KOTO VADEI**

**Counsel** : Ms M Konrote for the State  
Mr T Varinava for the Accused

**Date of Hearing** : **30 June 2023**

**Date of Sentence** : **17 July 2023**

**SENTENCE**

- [1] The accused pleaded guilty to a charge of rape arising from a conduct of oral penetration of a 12 year old girl's vagina using tongue.
- [2] The incident occurred in the month of April 2020 at Lami. On the day of the incident, the accused met the complainant for the first time. She accompanied him to his home and consumed alcohol. After the alcohol had finished she accompanied him to a bedroom and engaged in sex. He first kissed her on her lips, undressed her and then performed oral sex on her by penetrating her vagina with his tongue.
- [3] The maximum penalty for rape regardless of the nature of penetration is life imprisonment. The tariff for rape of a child is 11-20 years' imprisonment and the

purpose of sentence is to denounce the crime in the strongest terms (*Aitcheson v State* [2018] FJSC 29; CAV0012.2018 (2 November 2018)).

- [4] Although the complainant consented to the sexual act, she was underage and her consent is invalid. She was exploited for sexual exploitation due to her young age. She was offered and she consumed alcohol before the sexual act was carried out. These are aggravating factors.
- [5] The mitigating factors are that the accused pleaded guilty before the trial and is remorseful. He saved the court's time and resources by pleading guilty and relieved the complainant from the trauma of giving evidence. At the time of the offence he was 19 years old and a young person. He comes from a broken family and his education level is Form 4 (Year 10). He is a first time offender. He spent about 14 days in custody on remand before he was granted bail.
- [6] I pick 11 years as a starting point, add 2 years for the aggravating factors and deduct five years for the mitigating factors.
- [7] The accused is convicted and sentenced to 8 years imprisonment with a non-parole period of 5 years.



A handwritten signature in black ink, appearing to read 'D. Goundar', positioned above a dotted line.

**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Office of the Director of Public Prosecutions for the State

Legal Aid Commission for the Accused