

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 037 OF 2023

BETWEEN : **STATE**

AND : **ENEASI TAKELO**

Counsel : Ms W Elo & Mr J Singh for the State
Mr T Varinava & Mr W Navuni for the Accused

Date of Hearing : **14 July, 1 August, 3 August 2023**

Date of Sentence : **4 August 2023**

SENTENCE

- [1] Eneasi Takelo, you pleaded guilty to one count each of digital rape and sexual assault of a six year old girl. The victim is your niece – your cousin sister’s daughter.
- [2] The incident occurred when you were temporarily staying with the victim’s family at their home in Caubati in January this year. On the day of the incident, you called the victim into your bedroom while she was playing along the passage of the house. Her mother at the time was on the phone in another bedroom.
- [3] When the victim entered your room, you pulled down her underwear and rubbed her vulva with your hand and then penetrated it with your finger. The victim left your bedroom in anguish and complained to her mother.

- [4] The victim's mother immediately reported the matter to police. The victim was medically examined on the same day. She sustained two abrasions around her urethra. Her hymen was intact and there was no sign of bleeding.
- [5] Rape of a child is the most abhorrent crime. It is a form of violence that causes significant physical and psychological trauma to the survivors. The offence is prevalent and the courts duty is to denounce it in the strongest terms.
- [6] The maximum sentence for rape is life imprisonment and the tariff ranges from 11-20 years imprisonment for rape of a child (*Aitcheson v State* CAV12 of 2018). Sexual assault is punishable by 10 years imprisonment and the tariff ranges from 2-8 years imprisonment (*State v Laca* HAC252 of 2011).
- [7] In this case, the child victim experienced physical pain. She sustained physical injuries (abrasions) in her genitalia. She was molested in her home, a place she should have been safe. She was extremely vulnerable due to her tender age. You were an adult and her uncle. You grossly breached her and her family's trust. These are aggravating factors.
- [8] You are 41 years old and single. You have a history of mental illness but according to your psychiatric report there is no link between your offending and your mental illness. At the time of the offending you knew your conduct was morally wrong.
- [9] The mitigating factors are that you pleaded guilty early and saved court's time and resources and relieved a child of the trauma of giving evidence. You are genuinely remorseful. You are a first time offender.
- [10] Both offences are founded on the same facts. I consider an aggregate sentence is appropriate.

[11] I pick 12 years as a starting point, add 3 years for the aggravating factors and deduct 3 ½ years for the mitigating factors and 6 months for the remand period.

[12] You are convicted and sentenced to 11 years imprisonment with a non-parole period of 8 years.

[13] Now that you stand convicted, the DVRO is made permanent.



A handwritten signature in black ink, appearing to read "Daniel Goundar".

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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