

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No.: HAC 39 of 2025

STATE

V

HENRYBOB FISHER

Counsel : Mr. E. Kotoilakeba for the State
: Ms. S. Devi for the Accused

Sentencing Hearing : 25 June 2025
Date of Sentence : 18 July 2025

SENTENCE

1. On 10 June 2025, Mr. Fisher (“the offender”) was arraigned on an Information alleging that he raped a child under the age of 13 years on 29 April 2025. He pleaded guilty.
2. On 25 June 2025, the offender agreed a summary of facts proving the elements of the offence to which he pleaded guilty. Being satisfied that his plea was properly informed, voluntary and unequivocal, I found the offender guilty as charged and convicted him accordingly.
3. The facts may be briefly stated.
4. On 29 April 2025, the offender called out for his mobile phone, which was charging at the complainant’s family home, to be returned to him. When the

complainant took the phone to his house, he and the complainant started watching TikTok. They were lying beside each other sharing the same earpiece. The offender put his hand inside her panty and penetrated her vagina with his finger. The complainant returned home and informed her mother about what the offender did to her. There was a bloodstain on her underwear. The complainant was 5 years of age.

5. The matter was reported at Taveuni Police Station. When interviewed under caution, the offender admitted poking the complainant's vagina with his left thumb. He said that he had a good feeling when he was touching and playing with her vagina, but felt bad afterwards.
6. I must now proceed to impose a just and proportionate sentence.

Prosecution sentencing submissions

7. The prosecution relies on written submissions dated 20 June 2025, which were briefly developed at the sentencing hearing on 25 June 2025.
8. The relevant guideline judgment provides that the sentencing range for rape of a child is 11 to 20 years' imprisonment.
9. The prosecution submits that the offending is made more serious because the complainant was particularly vulnerable, the wide disparity in age, and the serious breach of trust arising from the fact that the offender was the complainant's mother's uncle. The complainant regarded him as her grandfather, calling him "Pa Hendry".
10. His antecedent report reveals that, on 7 March 2014, the offender was sentenced to 11 years' imprisonment for rape. The court fixed a non-parole period of 8 years. At the sentencing hearing, the offender informed me that the victim in that matter was an 11-year-old child.

Defence sentencing submissions

11. The defence relies on written submissions dated 17 June 2025, and Ms. Devi made oral submissions at the sentencing hearing.
12. By way of background, I am informed that the offender is 58 years old and married with 11 children, 3 of whom are financially dependent on him. The offender has a number of health issues, including diabetes, which resulted in amputation of his right leg below the knee.
13. The matters advanced in mitigation are the offender's advanced age, health issues, his co-operation with the police and early guilty plea. He seeks forgiveness and leniency.

Discussion

14. The maximum sentence for rape is life imprisonment.
15. Turning my attention to the purposes of sentencing as set out in section 4 of the Sentencing and Penalties Act 2009, I have had regard to a combination of the statutory purposes.
16. In this case, for obvious reasons, I have less regard to deterrence and rehabilitation. The offender is a repeat sexual offender against young children. The lengthy term of imprisonment imposed on him in 2014 neither deterred his repeat offending nor rehabilitated him.
17. Rather, my principal focus in determining the just and proportionate sentence in this case is protection of the community. I also consider it important in cases such as this for the sentence imposed to adequately signify that the court and the community denounce the commission of sexual offending against children.
18. Protection of the community is my overriding purpose in light of my concluded view that the offender is a committed paedophile. He re-offended within a few years of being released from a lengthy sentence for rape of a young child.

19. Mr. Fisher, I take 11 years' imprisonment as the starting point for your sentence. Leaving aside your guilty plea, balancing the aggravating and mitigating factors, I adjust the starting point upwards to 15 years' imprisonment. The factors that make your offending more serious, including the child complainant's extreme vulnerability, your breach of trust as her grandfather, and your status as a repeat sex offender, outweigh your limited mitigation by a considerable margin.
20. I do not consider that what is said to be your advanced age has any value in mitigation. Nor do I attach significant mitigatory weight to your health problems, which I accept may make your prison experience more difficult.
21. In reality, your only effective mitigation is your early guilty plea.
22. Irrespective of whether your early guilty plea reflects true remorse, in my view, there is real utilitarian value in sending a clear message to those accused of serious sexual offending that sentencing courts will give substantial credit to those who accept responsibility at the earliest opportunity.
23. An unambiguous and settled approach to the thorny issue of credit for plea would enable defence counsel to advise their clients with confidence and is likely to lead to more early guilty pleas, and a more consistent sentencing practice, contributing to the more efficient administration of criminal justice.
24. Whilst acknowledging the unease that sentencing courts may feel at giving substantial credit to those who accept responsibility for some of the most heinous sexual offending, it seems to me that it is precisely in these types of cases that the encouragement of early acceptance of guilt is most valuable.
25. Having made those general observations, I consider that the offender's early guilty plea in this case warrants a full one-third discount.
26. Mr. Fisher, you have pleaded guilty to the rape of an innocent and vulnerable child. You have accepted that you have served a lengthy term of imprisonment

for similar offending. It would appear that you have little insight into your offending behaviour, and have failed to take any steps to address your lasciviousness. In my view, you are a committed paedophile, and a danger to children in your community.

27. Having regard to all the circumstances of this case, were I sentencing you after a trial, the appropriate sentence would have been one of 15 years' imprisonment. However, by pleading guilty at the earliest opportunity you have saved the court's time and resources. Your child victim has been spared from the trauma of reliving at trial what you did to her. These are important considerations quite separate from the question of whether your early guilty plea reflects your genuine remorse.
28. I reduce your sentence by one-third, resulting in a final sentence of 10 years' imprisonment. In my view, this represents the shortest term commensurate with the seriousness of your offending.
29. I fix your non-parole period at 9 years, which I consider reflects the appropriate punitive element of your sentence, and also provides a reasonable incentive for rehabilitative efforts on your part.
30. I would encourage you to reflect at length on the inevitable harm that your entrenched pattern of offending causes to vulnerable young children, and to engage with any intervention programmes that may be available to you during your period of incarceration.
31. I am informed that you have been in custody since your arrest on 1 May 2025. You have therefore served around 11 weeks (which I round up to 3 months) in custody pending disposal of this matter, which is to be regarded as a period of imprisonment that you have already served.
32. Accordingly, the remaining time you must serve before being eligible to be released on parole is 8 years 9 months.

33. Mr. Fisher, for the reasons I have explained, the sentence I impose is 10 years' imprisonment, less the time you have already served on remand. Your non-parole period is 8 years 9 months from today.
34. You may appeal to the Court of Appeal within 30 days.



Hon. Mr. Justice Burney

At Labasa

18 July 2025

Solicitors

**Office of the Director of Public Prosecutions for the State
Office of the Legal Aid Commission for the Accused**