

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

CRIMINAL CASE NO. HAC 98 OF 2022

**STATE**

-v-

**ROKO JOSUA MUSUNAVANUA RAIWALUI MOALA WAQAIRATU**

**Counsel:** Ms. Ram, Pream for the State  
Mr. Emasi, Inoke for the Accused

**Date of Mitigation & Sentencing Submission:** 25<sup>th</sup> September, 2025  
**Date of Sentence:** 29<sup>th</sup> September, 2025

**SENTENCE**

1. **ROKO JOSUA MUSUNAVANUA RAIWALUI MOALA WAQAIRATU**, on **23<sup>rd</sup> May, 2022** you pleaded guilty on your own accord to the following offence;

**COUNT 1**

**Statement of Offence**

**ASSAULT CAUSING ACTUAL BODILY HARM:** Contrary to **section 275** of the **Crimes Act 2009**.

**Particulars of Offence**

**ROKO JOSUA MUSUNAVANUA RAIWALUI MOALA WAQAIRATU**, between the 1<sup>st</sup> day of November 2019 and 30<sup>th</sup> day of November 2019 at Waila, Nausori in the Eastern Division, and assaulted **TERESIA VOCEVOCE** by striking her with the blunt side of a cane knife multiple times over her head causing her actual bodily harm.

## COUNT 2

### Statement of Offence

**ASSAULT CAUSING ACTUAL BODILY HARM:** Contrary to section 275 of the Crimes Act 2009.

### Particulars of Offence

**ROKO JOSUA MUSUKANAVANUA RAIWALUI MOALA WAQAIRATU**, between the 1<sup>st</sup> day of September 2020 and 30<sup>th</sup> day of September 2020 at Waila, Nausori in the Eastern Division, and assaulted **TERESIA VOCEVOCE** by punching her multiple times causing her actual bodily harm.

## COUNT 3

### Statement of Offence

**ASSAULT CAUSING ACTUAL BODILY HARM:** Contrary to section 275 of the Crimes Act 2009.

### Particulars of Offence

**ROKO JOSUA MUSUKANAVANUA RAIWALUI MOALA WAQAIRATU**, between the 1<sup>st</sup> day of November 2020 and 30<sup>th</sup> day of November 2020 at Walla, Nausori in the Eastern Division, and assaulted **TERESIA VOCEVOCE** with an extension cord causing her actual bodily harm.

## COUNT 4

### Statement of Offence

**ASSAULT CAUSING ACTUAL BODILY HARM:** Contrary to section 275 of the Crimes Act 2009.

### Particulars of Offence

**ROKO JOSUA MUSUKANAVANUA RAIWALUI MOALA WAQAIRATU**, on the 27<sup>th</sup> day of December, 2020 at Waila, Nausori in the Eastern Division, and assaulted **TERESIA VOCEVOCE** by punching her causing her actual bodily harm.

2. You also admitted to the facts read and explained to you by the Prosecutor. The facts revealed that you and the complainant are husband and wife. The above incidents happened as follows;

First incident (Count 1) happened in November, 2019 after the complainant gave birth to her second youngest child, the accused had assaulted her. On that day, she had returned from afternoon shift around 12am. When she reached home, the accused was angry at her for being late. She explained to him that the transportation that was supposed to drop her home had come late. The accused had picked up a cane knife and used the blunt side to hit her multiple times over her head. The accused kept hitting

PW1's head until she fell onto the floor and started to crawl as she got dizzy from the assault.

3. The second incident (Count 2), the complainant states that sometimes in September, 2020, she was 9 months pregnant. After finishing work, she went to her clinic appointment at CWMH maternity ward. When she returned home, the accused was angry on her for not coming home directly from her work. The accused punched her head, ribs and her back. She had a black eye after the assault.
4. As for the third incident (Count 3), in November 2020, the complainant states that the accused beat her up with an extension cord. He hit her left and right thigh leaving marks on her legs. She states that he hit her so much that she could not feel her thighs and arms.
5. The fourth incident (Count 4), the complainant states that on 27 December 2020, the accused and her had an argument about her employment. The accused punched her upper body several times until she fell on the floor.

### **Conviction**

6. The Court finds you guilty as charged and convicts you of four counts of Assault Causing Actual Bodily Harm contrary to **section 275** of the *Crimes Act, 2009*.

### **Sentencing Guidelines**

7. Before sentencing the Accused, this court has considered the sentencing guidelines pursuant to **sections 4(1), 4(2) and 15** of the *Sentencing and Penalties Act, 2009*.

### **Maximum Penalty and Tariff**

8. The maximum penalty of the offence of Assault Causing Actual Bodily Harm is 5 years imprisonment.
9. In the case of *Matai v State* [\[2018\] FJHC 25](#); *Criminal Appeal 108.2017Ltk* (26 January 2018) His Lordship Justice Madigan imposed a new domestic violence tariff. His Lordship states:

*“... it must now be said that the tariff for a domestic violence **assault causing actual bodily harm** is a wide range of 6 to 18 months, wide enough to cater for all kinds of injuries. It would be only in exceptional circumstances that a suspended sentence would be passed for the offence, given that sending the convict back into the family home could well have perilous consequences. For a second offence on the same victim, a suspended sentence is inconceivable...”*

10. The applicable tariff for domestic violence is 6 to 18 months imprisonment and in exceptional circumstance would a suspended sentence be rendered.

### **Starting Point**

11. In determining the starting point within the said tariff the Court of Appeal, in *Laisiasa Koroivuki v State* [\[2013\] FJCA 15](#); AAU 0018 of 2010 (5 March 2013); has formulated the following guiding principles:

*"In selecting a starting point, the court must have regard to an objective seriousness of the offence. No reference should be made to the mitigating and aggravating factors at this time. As a matter of good practice, the starting point should be picked from the lower or middle range of the tariff: After adjusting for the mitigating and aggravating factors, the final term should fall within the tariff. If the final term falls either below or higher than the tariff, then the sentencing court should provide reasons why the sentence is outside the range."*

12. The court selects a starting point of 09 months imprisonment due to the seriousness of such offending.

### **Aggravating Factors**

13. The aggravating factors are as follows;
  - (a) The complainant is your spouse and the mother of your children. This kind of abusive behavior not only cause physical injury but also psychological trauma to the complainant.
  - (b). Domestic violence can be scary for the whole family, and especially for children who witness the abuse of their mother, the complainant. Children exposed to violence in the home are likely to suffer long- lasting consequences.
  - (c). The use of weapons to assault the complainant is also a concern.
  - (d) The repetitive attack on the complainant shows the gravity of the abuse especially when there was no provocation in each of the offending.
14. In considering the above factors, this court enhances your sentence by 09 months and your sentence is now 18 months imprisonment

### **Mitigating Factors**

15. The following are your mitigating factors;
  - (a). First offender;
  - (b) Remorseful for your actions; and
  - (c). Beseched the court for an opportunity to reform.
16. Your wife, who is the complainant, in open court mitigated on your behalf. She informed the court that at the early stages of your marriage, you had lots of trouble. However, after this incident you have changed your behaviour. You helped her in taking care of the family especially your young children. She begged for another opportunity to be provided to you.
17. Based on the above factors, I decide to reduce your sentence by 03 months and arrive at 15 months imprisonment.

### **Early Guilty Plea**

18. The Prosecution reminded the Court that you pleaded guilty at the initial stages. This early guilty plea is a clear indication of your remorse for your dreadful actions against your wife.

19. The court will reduce one third from your sentence, which is 05 months and your final term is 10 months imprisonment.

### **Sentence**

20. Your final term is 10 months imprisonment.

### **Sentence for more than one offence**

21. **Section 17** of the *Sentencing and Penalties Act* states:

*"If an offender is convicted of more than one offence founded on the same facts, or which form a series of offences of the same or a similar character, the court may impose an aggregate sentence of imprisonment in respect of those offences that does not exceed the total effective period of imprisonment that could be imposed if the court had imposed a separate term of imprisonment for each of them."*

22. Since you are convicted of more than one offence founded on the same facts pursuant to **section 17** of the **Sentencing and Penalties Act, 2009**, your head sentence is 10 months imprisonment.

### **Summary of Sentence**

23. Your sentence is summarized as follows;

Count 1 – Assault Causing Actual Bodily Harm (Head Sentence) – 10 months imprisonment

Count 2 – Assault Causing Actual Bodily Harm – 10 months - imprisonment

Count 3 - Assault Causing Actual Bodily Harm – 10 months - imprisonment

Count 4 - Assault Causing Actual Bodily Harm – 10 months - imprisonment.

24. I order that all terms are to be served concurrently to each other. Therefore, your total term is 10 months imprisonment.

### **Suspend or not to suspend**

25. As per **Section 26(2)** of the *Sentencing and Penalties Act 2009*, the discretion to suspend a sentence/punishment should only be exercised by a High Court where the custodial sentence/punishment does not exceed 3 years and as opined in the Sentence Ruling in *State v Aiding Zhang* [2017] HAC 061 if there be circumstance which are exceptional.

26. Your wife who is the complainant in this case, indicated to the court that you have assisted her a lot in the raising of your young children. I am of the opinion that should the court order a custodial sentence, your wife and children will face more hardship from your absence from their lives.

27. I, therefore decide to order that your sentence of 10 months imprisonment term be suspended to a period of 2 years effective forthwith.

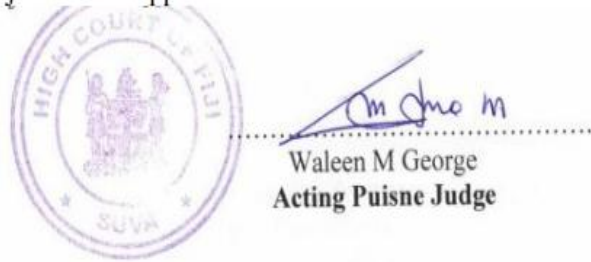
28. The effect and the consequences of any violation of a suspended term are explained to the Accused in open court.

**Permanent Domestic Violence Restraining Order**

29. Furthermore, since you are in a domestic relationship with the complainant, I issue a Permanent Domestic Violence Restraining Order pursuant to **section 27** of the *Domestic Violence Act, 2009* which is Standard Non-Molestation Conditions.

**Appeal Period**

30. You have 30 days to appeal to the Court of Appeal if you wish to do so.



The image shows a purple circular stamp of the High Court of Fiji, Suva, with a central emblem. To the right of the stamp is a handwritten signature in blue ink, which appears to be 'Waleen M George'. Below the signature is a dotted line, and underneath that, the name 'Waleen M George' and the title 'Acting Puisne Judge' are printed in black text.

Dated at Suva this 29<sup>th</sup> day of September, 2025

*Solicitors for the State – Office of the Director of Public Prosecution, Suva*  
*Solicitors for the Accused Person – Legal Aid Commission, Suva*