

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

Criminal Case No. HAC 22 of 2024

THE STATE

-v-

JEMESA TAGIVE

Counsel: Mr T Tuenuku for the State
Ms M Besetimoala for the Accused

Date of Judgment: 20 February 2026

Sentencing Hearing: 6 March 2026

Date of Sentence: 13 March 2026

SENTENCE

1. **Mr Jemesa Tagive**, you were convicted after trial before this Court of a single count of rape of your 7-year-old cousin at her home in October 2018. You were 22 years old at the time of your offending, and are now 30 years of age.

Prosecution sentencing submissions

2. The prosecution has filed written sentencing submissions setting out the current sentencing practice for child rape. The Supreme Court has decided that the appropriate range is between 11 to 20 years' imprisonment.
3. A Victim Impact Statement was filed on 5 March 2026, from which it is apparent that, even many years after you raped her, your victim continues to suffer the emotional and psychological harm that you caused to her.

4. The prosecution say that your offending is made more serious because of the age gap between you and the victim, and your offending involved a breach of trust. As her elder male relative, you were supposed to protect your cousin.
5. The prosecution concludes that a deterrent sentence is warranted having regard, in particular, to the prevalence of child sexual abuse in Fiji.

Defence sentencing submissions

6. Ms Besetimoala has made helpful written and oral submissions on your behalf. She realistically accepts that only an immediate custodial sentence would meet the purposes of sentencing in all the circumstances of this case. In urging the Court to impose the shortest sentence commensurate with the seriousness of your offending, Ms Besetimoala emphasises your clear record, the fact that you are deaf and mute, and the long delay in disposing of this matter.
7. On the issue of unreasonable delay, Ms Besetimoala has brought to my attention the Judgment of the Supreme Court in ***Navunisaravi v State*** [2024] FJCA 245; CAV 040.2023 (30 October 2024), which I have found most helpful.
8. Since I was first seised of this matter in October 2024, I have been concerned about the unexplained delay in charging you. The matter was reported to the police in 2018, but you were not interviewed by the police until September 2022. There was a further delay to January 2024 before you were brought before the Magistrates' Court, and the case was promptly transferred to this Court.
9. I have not been provided with a chronology or any explanation for the long delay. It may be partly explained by the fact that the police found it difficult to interview you in light of your disabilities, but I do not consider that to provide a satisfactory answer. Individuals with particular needs must be accommodated in the criminal justice system and afforded fair treatment.
10. In conclusion, Ms Besetimoala urges the Court to impose a lenient sentence to allow you a second chance at life.

Analysis and disposal

11. The rape of a child is a very serious offence. It can, and often does, as in this case, have significant long-term psychological and emotional effects on victims.

12. The gravity of the offence is reflected in the statutory maximum sentence of life imprisonment and the Supreme Court guideline judgment.
13. Your rape of your 7-year-old cousin in her own bed, where she was entitled to feel safe at night, is an offence of the utmost gravity. I consider that the appropriate starting point for your sentence is 11 years' imprisonment.
14. I take into consideration that you were a relatively young man of 22 years at the time of your offending. It is now well-established by case law that the young age and/or lack of maturity of an offender do not cease to have any relevance on his or her 18th birthday. Full maturity and all the attributes of adulthood are not magically conferred on young people on their 18th birthdays. Experience of life reflected in scientific research is that young people continue to mature, albeit at different rates, for some time beyond their 18th birthdays. The youth and maturity of an offender continue to be factors that inform any sentencing decision even if an offender has passed his or her 18th birthday.
15. In this case, I consider that your lack of maturity played a large part in your poor decision-making when you took advantage of your victim to sexually abuse her.
16. Having said that, there is only so far that a sentencing court may properly go in making allowance for a young offender's lack of maturity, especially so in cases such as this where the offending is against a vulnerable child victim. The courts have a duty to protect children from the scourge of serious sexual offending against children by other children and young offenders, which has sadly become far too prevalent in our society. That duty requires sentencing courts to impose sentences on young offenders that send a strong message that children and young adults who may contemplate sexually abusing children can expect lengthy custodial sentences if convicted of such offending.
17. It is, however, appropriate that I also take into consideration your difficulties in communicating, which I consider will make your period of incarceration more difficult for you.
18. To reflect your youth and disabilities, I adjust your sentence downwards to 8 years' imprisonment.

19. I further reduce your sentence by 2 years to provide redress for the fact that these proceedings were hanging over you for more than 5 years before the decision was made to charge you.
20. In the result, I consider that the shortest sentence commensurate with the seriousness of your offending in all the circumstances of this case is 6 years' imprisonment.
21. I reduce your sentence by 2 weeks to reflect the time you have already spent in custody.
22. To reflect what I consider to be your reasonable prospects of rehabilitation, I fix a non-parole period of 4 years.
23. Accordingly, you are sentenced to 5 years 11 months 2 weeks' imprisonment. Your non-parole period is 3 years 11 months 2 weeks from today's date.
24. Mr Tagive, I hope that you are able to understand why I have decided that you must serve a significant sentence of imprisonment. I urge you to fully engage with any rehabilitative programs made available to you during your period of imprisonment.
25. 30 days to appeal to the Court of Appeal.




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Hon. Mr Justice Burney

At Labasa

13 March 2026

Solicitors

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