

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No: HAC 13 of 2025

STATE

V

MALELI NAWAI

Counsel : **Ms T Tuenuku for the State**
: **Mr I Rusaqoli for the Accused**
Judgment : **6 March 2026**
Sentencing Hearing : **13 March 2026**
Date of Sentence : **20 March 2026**

SENTENCE

1. Mr Maleli Nawai, on 6 March 2026, you were convicted after trial before this Court of the following three counts of sexual offending against your 13-year-old neighbour and relative, who I shall refer to as CC in these sentencing remarks:

- (i) Indecent Assault, contrary to section 212 (1) of the Crimes Act 2009, the particulars being that, between 16 December 2022 to 6 February 2023, at Yadua Island, Bua, you unlawfully and indecently assaulted CC by kissing her on her lips (count 1);
- (ii) Indecent Assault, contrary to section 212 (1) of the Crimes Act 2009, the particulars being that, between 16 December 2022 to 6 February 2023, at Yadua Island, Bua, on an occasion other than count 1, you unlawfully and indecently assaulted CC by rubbing her breasts and crotch area over her clothes (count 2);

- (iii) Rape, contrary to section 207(1), (2)(a) of the Crimes Act 2009, the particulars being that, between 16 December 2022 to 6 February 2023, on an occasion other than in count 2, you inserted your penis into CC's vagina without her consent (count 3).
2. The facts may be shortly stated.
 3. All three incidents occurred in CC's own home during the eight-week holiday beginning in December 2022.
 4. One day, at around 10am, CC was washing clothes in the bathroom when you came in, twisted her head, and kissed her on her lips. She slapped your face with a bar of soap.
 5. CC was home alone one night, reading a book, when you came and asked for the wood that is used to beat pandanus leaves. Her parents were out catching crabs. When she went to the kitchen to look for the wood, you followed her and touched her breasts over her clothes from behind. You used your hand to rub her pubic area over her clothes. As soon as you touched her, she pushed your hand away. As you left, you told her not to tell anyone. She did not tell anyone about what you did because she was scared.
 6. On another day, CC returned from bathing wrapped in a towel. As she was about to enter her room, she saw you staring at her from the front door. She was home alone as her parents had gone out to sea. She told you to go, but you followed her into her room and pushed her on the bed. You took off your pants and, as she tried to stand, you lay on top of her. You penetrated her vagina with your penis without her consent for one or two minutes. You then got dressed and left. She did not tell anyone about this incident because you had told her not to tell anyone, and she was scared of her father.
 7. Eventually, a report was made to the police in January 2025.
 8. At the time of your offending you were 38 years of age.

Prosecution sentencing submissions

9. The prosecution relies on written submissions dated 12 March 2026, annexing a Victim Impact Assessment Report dated 11 March 2026.
10. The statutory maximum sentence for rape is life imprisonment. The relevant guideline judgment provides that the sentencing range for rape of a child is 11 to 20 years' imprisonment. The statutory maximum sentence for indecent assault is 5 years' imprisonment, with an established sentencing range from 12 months imprisonment to 4 years' imprisonment.
11. The prosecution submits that your offending is made more serious by a number of factors:
 - (i) As an uncle and neighbour, you owed a duty of trust to CC;
 - (ii) You sexually abused CC in her own home;
 - (iii) You were almost 25 years older than CC when you sexually abused her;
 - (iv) Your offending against CC evidences an escalating pattern;
 - (v) Your offending has caused profound emotional and psychological harm to CC.

Victim Impact Statement

12. CC's counsellor has provided a detailed narrative of the impact of your offending.
13. CC was living in fear of you and unable to tell her father about your abuse. After you raped her, CC developed feelings of worthlessness, began to question life, and had suicidal ideation.
14. To this day, CC has faced continuous mental health challenges. When she wished to return from boarding school to help out at home, she was afraid to do so. She lost focus in school and suffered anxiety attacks. She finds it difficult to sleep.

Defence sentencing submissions

15. The defence relies on written submissions dated 10 March 2026, and Mr Rusaqoli made oral submissions on your behalf at the sentencing hearing.
16. By way of background, I am informed that you now a 41-year-old married man with two children. You earn a living as a fisherman and are the sole breadwinner for your young family.
17. You have no previous convictions and are said to be remorseful.

Discussion and disposal

18. Sexual offending against children is sadly all too prevalent in our society. Increasingly severe sentences handed down by our courts in recent years have seemingly failed to deter those who are minded to sexually abuse children. It might be argued that such lascivious reprobates amongst us simply cannot be deterred by condign punishment. The unpalatable reality may well be that such people are simply incorrigible.
19. In determining a just and proportionate sentence in this case, I have considered the purposes of sentencing, as set out in section 4 of the Sentencing and Penalties Act 2009. I consider it particularly 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.
20. Since your persistent offending against a single victim took place over a relatively short period, I consider it appropriate to impose an aggregate sentence reflecting the totality of your offending behaviour.
21. I take 12 years' imprisonment as the starting point for the aggregate sentence to reflect the objective seriousness of your offending across all three counts.
22. Balancing the aggravating and limited mitigating factors, I adjust the starting point upwards to 15 years' imprisonment. The factors that make your offending more serious, notably your offending against CC in her own home, and the

profound enduring impact your offending has caused to her, outweigh your available mitigation by a considerable margin.

23. I do not consider your professed remorse to be genuine. It is pertinent to note that you ran an elaborate false alibi defence at trial. It appears to me that you are a calculating and cunning sex offender.
24. Despite my reservations about your prospects of rehabilitation, I fix your non-parole period at 10 years, which I consider reflects the appropriate punitive element of your sentence, and also provides a reasonable incentive for rehabilitative efforts on your part.
25. You have been in custody pending disposal of this matter for around 2 months, which I round up to 3 months to be regarded as a period of imprisonment that you have already served.
26. Accordingly, the remaining time you must serve before being eligible to be released on parole is 9 years 9 months.
27. Mr Maleli Nawai, for the reasons I have explained, the sentence I impose is 15 years' imprisonment, less the time you have already served on remand. Your non-parole period is 9 years 9 months from today.
28. You may appeal to the Court of Appeal within 30 days.



A handwritten signature in black ink, consisting of a stylized 'W' followed by a long horizontal line.

Hon. Mr Justice Burney

At Labasa

20 March 2026

Solicitors

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