

**IN THE HIGH COURT OF THE COOK ISLANDS  
HELD AT RAROTONGA  
(CRIMINAL DIVISION)**

**CR NOS: 614/24 & ORS**

**POLICE**

v

**YAWEA TEOPHILO**

Hearing: 20 January 2025 (via Zoom)

Appearances: Mr S Savumiramira for Crown  
Mr N George for Defendant

Sentence: 20 January 2025

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**SENTENCING NOTES OF KEANE, CJ**

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[1] Yawea Teophilo, you appear for sentence for 47 representative sexual offences against two children, two young girls, between 12 August 2010 – 31 December 2019.

[2] You offended 21 times against TA, who was living with the family on whose property you lived, between 12 August 2010–31 December 2013, when she was aged between 8–11 years. You raped her five times. You sodomised her once. You indecently assaulted her, or induced her to indecencies with you, 15 times.

[3] You offended 26 times against JA, a child of the family on whose property you lived, between 12 August 2010–31 December 2019, when she was aged between 5–13 years. You raped her six times. You attempted to rape her once. You indecently assaulted her, or induced her to indecencies with you, 19 times.

[4] In all these charged offences, not just the most extreme – the rapes, the attempted rape, and the sodomy – you imposed yourself and your fantasies on these children in all the ways the charges illustrate. These admitted offences, set against the Crown statement of facts, which you do not dispute, speak graphically and distressingly for themselves. And each is just a single instance of your sustained offending in that particular way over years.

[5] Sometimes you offended against the children by themselves, more often together. In a number you used force, and inflicted pain. You made the children watch pornography and act it out with you. You recorded some of your offences on your phone. You never let up.

[6] You offended as easily and often as you did because you lived on the family property as a friend, and you and the children were often alone together (you worked at night and did not go to church). JA's parents trusted you completely. In their own home, and at secluded places to which you took the children, you grossly exploited that trust.

[7] Your offending against the children did not emerge until March 2023, when JA, by then aged 16, disclosed it to a school counsellor. TA was then also identified as your victim.

[8] On 23 April 2024, when interviewed by the Police, you readily admitted this offending, but said the children had consented, or asked you to act as you did. That remains your stance today.

### **Victim impact**

[9] In their victim impact statements JA and TA both say that during your offending and afterwards they could not tell anybody because they feared they would not be believed.

[10] Each has been profoundly damaged. As JA says, you took her innocence away; and that has of, course, to be true equally for TA. Each is very relieved that you are now to be held accountable and will no longer be a risk to children.

### **Probation report**

[11] Your probation report explains how you came to live with the family and why you were so trusted. You say still, it says, that the children agreed or asked you to act as you did.

You say they accepted money. It concludes, nevertheless, that the offending you admit to was so extremely serious that a custodial sentence must be imposed.

### **Sentence elements**

[12] As the Crown submits, and your counsel responsibly accepts, your lead offences for sentence, the 11 rape offences, lie in the fourth and most serious of the sentencing bands identified by the Court of Appeal in *R v Tou*.<sup>1</sup>

[13] The Court there set those four bands against the statutory maximum sentence for rape, 14 years as opposed to 20 years in New Zealand; and reserved the fourth band for the most extreme forms of band three offending.

[14] Band three, with starting points of 9 to 12 years, is especially apt for a ‘particularly cruel, callous or violent single episode’, aggravated by more than three factors, like premeditation, abduction, a vulnerable victim, offenders acting in concert, serious additional violence, and the like; or two or more such factors to a high degree.

[15] Band four, with starting points of 11 to 14 years, is for multiple offences at upper band three level, ‘over considerable periods of time, usually years’, as in your case. The Crown contends in your case for a 14 year starting point. Your counsel does not dissent.

[16] Secondly, as the Crown submits and your counsel does not dispute, that starting point must be uplifted for your many other offences, the indecent assaults and inducing indecencies. That uplift must be significant, but relate reasonably to that starting point, so that your final sentence is proportionate to your total offending.<sup>2</sup>

[17] In *R v KJB*,<sup>3</sup> a case also involving multiple sexual offences, the NZ Court of Appeal uplifted a 5 year starting point by 7 years, an uplift larger than the starting point itself. In your case the Crown contends for a 7 year uplift, half its submitted 14 year starting point. Your counsel does not dissent.

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<sup>1</sup> *R v Tou* CA No 3/2022, 24 November 2022, para [24].

<sup>2</sup> *Moses v R* [2020] NZCA, [2020] 3 NZLR 583; *Taylor v R* [2012] NZCA 332; *R v Rihari* [2021] NZHC 3334.

<sup>3</sup> *R v KJB* [2007] NZCA 292.

[18] The sentence then proper for your total offending, to be imposed for your 11 rape offences and the sodomy offence, the Crown submits, 21 years, must be offset against your relevant personal circumstances. And, as counsel agree, there are only two.

[19] One is your guilty plea to the charges, sparing the need for a trial at which the complainants would have to give evidence, entitling you to a one third discount, 7 years, reducing your rape and sodomy sentences to 14 years.

[20] The other is your time in custody on remand since May 2024, some 9 months, making your final sentence for your lead offences 13 years, 3 months; all your other offences to attract concurrent sentences.

## **Conclusions**

[21] In sentencing you, Mr Teophilo, I begin with your own counsel's comment that your offending is the most extreme of its kind that he can ever recall in the Cook Islands.

[22] You singled out TA at age 8 and JA at age 5 and groomed, intimidated and coerced them. You abused them sexually in a wide variety of ways over years; 3 years in TA's case, 9 years in JA's. You did so as much as four times a week.

[23] In raping them, in TA's case sometimes anally, you caused them acute pain as they told you repeatedly. In indecently assaulting them, or inducing them to join you in indecencies, often exposing them to pornography, you took away their childhood.

[24] To this day you believe, your counsel in his responsible submission says, that the children consented or asked you to act as you did. You did not force them or cause them pain. They were already very familiar with pornography. An unbelievable and grotesque state of belief in which you attribute to them your own fantasies.

[25] You also rely, your counsel says, on the fact that because you were not related to either of them, you were not under any duty of trust when you were together. Once again a state of belief confirming that you lack any remorse, and you constitute a continuing danger.

[26] For your 11 rape offences, and your sodomy offence, accepting as I do the Crown's submission, from which your counsel does not dissent, I sentence you to concurrent terms of imprisonment of 13 years, 3 months.

[27] For all your other offences I impose the following concurrent terms of imprisonment:

- (a) for the attempted rape, attracting a 10 year maximum, 10 years;
- (b) for the indecent assaults and inducing indecencies, when the children were under 12, attracting a 10 year maximum, 10 years; and
- (c) for those when they were aged between 12–16 years, attracting a 7 year maximum, 7 years.

[28] Your effective total sentence of imprisonment remains 13 years, 3 months. That sentence imposed, the Crown with my leave withdraws all remaining charges against you: Charges 1–6, 30–31, and those listed at the end of the charge list.



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**P J Keane, CJ**