

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. HAC 425 OF 2018**

**BETWEEN** : STATE

**AND** : JOSEVATA WERELAGI

**Counsel** : Ms S Tivao with Ms L Bogitini for the State  
Ms S Nasedra with Ms T Kean for the Accused

**Date of Hearing** : 25 – 29 November 2019, 2 – 4 December 2019

**Date of Summing Up:** 5 December 2019

**Date of Judgment** : 9 December 2019

**Date of Sentence** : 12 December 2019

**SENTENCE**

[1] Following a trial, the Accused was found guilty of one count of aggravated sexual servitude and three counts of domestic trafficking involving a child.

[2] The Accused is a hairdresser and a sex worker. His first contact with the victim was in Nausori town on the evening of 18 July 2015. She was 15 years old at the time and living with her mother after dropping out of school. He knew her mother but not her. After a brief encounter, she accompanied him to Samabula on that night for a meal. He facilitated the transport from Nausori to Samabula and when they arrived in Samabula he took her to a bus stop at Rewa Street and introduced her into sex industry. On this night she had sexual intercourse with two adult males in exchange for a payment, which she shared with the Accused. After providing sexual services, she accompanied the Accused to his

home. She remained with him until 23 July 2015 when she was rescued from the street by a police officer. She got the attention of the police officer because she appeared very young to him.

- [3] While under the control of the Accused, the victim accompanied him from Nausori to Samabula on two other nights to provide sexual services. On both occasions he facilitated her transportation and also groomed her to make her look older. He controlled her by giving instructions and he made sure that she returned to him after providing sexual services to clients. He sold her to clients and demanded his share of payment for the sexual services she provided. The clients were adult males. The sexual services were penetrative in nature. She feared him and she felt like a slave.
- [4] The maximum penalty prescribed for aggravated sexual servitude is 20 years imprisonment. Domestic trafficking in children is more serious offence. The maximum penalty prescribed for this offence is 25 years imprisonment.
- [5] The offences are grave because they involve a vulnerable child. There is no established tariff or a starting point for these offences. The only comparable case is *State v Raikadroka* - Sentence [2014] FJHC 409; HAC80.2013 (9 June 2014), in which Madigan J suggested a range of 12 to 18 years' imprisonment for offences of a similar nature. That case involved slavery and trafficking of two children aged 15 and 17 years. The overseas cases are of little relevance because of different sentencing regimes or different circumstances of offending.
- [6] In this case, I select a starting point of 12 years' imprisonment based on the objective seriousness of the offences involving a child victim.
- [7] I now consider the subjective circumstances of the Accused. He is 38 years old and supports his elderly parents and a younger sister. He has a long list of previous convictions but none involve offences against children. His personal or family circumstances and his character are of little mitigating value.

- [8] Counsel for the Accused submits that the duration of the exploitation mitigates the offences. I disagree. The duration of the exploitation is short because of an intervention by the law enforcement and not due to the conduct of the Accused. Apart from giving a mixed statement to police, the Accused did not cooperate or offer any assistance to police investigation, deserving credit.
- [9] I do not hold against the Accused for exercising his right to a trial and for not expressing any remorse by taking responsibility for his actions. However, if he had done so, he would have been given some credit for his expression of remorse as a mitigating factor.
- [10] I consider the following as aggravating factors. The offences were repeated over a period of four days. The sexual services provided by the victim were penetrative in nature. The incidents occurred at night times and in an environment dangerous to the child victim (dark secluded locations and with adult males). The incidents had both physical and mental toll on the victim – evidence of which she gave at the trial and in her victim impact statement.
- [11] The principle purposes of sentence in this case are to denounce the conduct of the Accused and deter him and other like-minded people from sexually exploiting children. In the present case, a child was commercially exploited for penetrative sex. The need for deterrence is therefore high despite there was no physical violence or weapon used.
- [12] Finally, I take into account that the Accused had been in custody on remand since 8 November 2018 – a period which I take into account to reduce the sentence.
- [13] I would have imposed a term of 16 years' imprisonment but for the remand period and the delay in bringing the prosecution from the date of the offences, I sentence the Accused as follows:

Count one – Aggravated Sexual Servitude – 14 years' imprisonment.

Count two – Domestic Trafficking in Children – 14 years' imprisonment.

Count three – Domestic Trafficking in Children – 14 years' imprisonment.

Count four – Domestic Trafficking in Children – 14 years' imprisonment.

[14] The sentences are made concurrent. The total effective sentence is 14 years' imprisonment with a non-parole period of 10 years.



A handwritten signature in blue ink, consisting of the letters "DG" followed by a long horizontal line that tapers to a point on the right.

**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

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