

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 001 OF 2018S

STATE

Vs

JOSUA BUETA

Counsels : Ms. S. Sharma for State
Ms. L. Ratidara for Accused

Hearings : 12 and 13 June 2019.

Summing Up : 14 June, 2019.

Judgment: 14 June, 2019.

JUDGMENT

1. The three assessors had returned with a unanimous opinion finding the accused not guilty as charged.
2. Obviously, the three assessors had not accepted the prosecution's version of events. It also meant they had rejected the complainant's version of events. It also meant they had accepted the accused's version of events.
3. I have reviewed the evidence called in the trial and I have directed myself in accordance with the summing up I delivered to the assessors today.

4. Assessors are there to assist the trial judge reach a decision on whether or not the accused was guilty as charged. The assessors' views represent the public's view and it must be treated with respect.
5. I have carefully examined the complainant's sworn evidence, as against the accused's sworn evidence. In my view, I find the complainant's evidence somewhat not credible. She agreed to drink with the accused. She agreed to go out with the accused after leaving Union Nightclub. She willingly drank with the accused and his two friends, on the night in question. She had been drinking since 8 pm on 13 December 2017 to dawn on the morning of 14 December 2017. She had sex with one Molitoni, before having sex with the accused. At times, while giving evidence, she was smiling to the court. That appeared to show she was not treating the case as serious.
6. When I hear the accused's evidence, it leads me to doubt the prosecution's case. The accused's evidence appears to have a ring of truth to it. In any event, the accused's denial of rape and saying he had consensual sex with the complainant, appear to have a ring of truth to it.
7. The sum total of the complainant and accused's evidence had led the court to doubt the prosecution's case. In fact, it had created a reasonable doubt in the prosecution's case. The benefit of that doubt must go to the accused.
8. On the whole, I agree with the three assessors' unanimous not guilty opinion and find that the prosecution had not proven its case beyond reasonable doubt. I find the accused not guilty as charged and I acquit him accordingly.
9. You are free to go home.

10. 28 days to appeal to the Court of Appeal.

11. Assessors thanked and released.



A handwritten signature in blue ink, appearing to be "Salesi Temo".

Salesi Temo
JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**
Solicitor for the Accused : **Legal Aid Commission, Suva.**