

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 025 OF 2019S

STATE
vs
EMOSI DABENAISE

Counsels : **Ms. U. Tamanikaiyaroi for State**
Ms. T. Kean and Ms. M. Cobona for Accused

Hearings : **1 and 2 October, 2019.**

Summing Up : **3 October, 2019.**

Judgment : **3 October, 2019.**

JUDGMENT

1. The three assessors had returned with a unanimous opinion finding the accused guilty as charged.
2. Obviously, the assessors had accepted the prosecution's version of event, which meant they also accepted the complainant's evidence.
3. I have reviewed the evidence called in the trial and I had directed myself in accordance with the summing up I gave the assessors today.

4. I agree with the unanimous opinion of the three assessors. I accept the female child complainant's evidence. Although at times, she was inconsistent in her evidence when she said she went to the store and later said, she did not go to the store. She clarified the matter when re-examined by prosecution that she went to the store with the accused on 5 August, 2013.
5. I accept her evidence that the accused inserted his finger into her vagina, at the material time. I accept she was 8 years old at the time.
6. Given the above, on the totality of the evidence, I agree with and accept the three assessors unanimous guilty opinion and find the accused guilty as charged. As he was a juvenile at the time, I can only find him guilty, but not convict him.
7. Assessors thanked and released.




Salesi Temo
JUDGE

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