

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No.: HAC 57 of 2024

STATE

V

SOLOMONE TIKOITOTOGO

Counsel : Mr. E. Kotoilakeba for the State
: Ms. K. Marama for the Accused

Date of Trial : 14 and 16 April 2025
Date of Judgment : 16 May 2025
Date of Sentencing Hearing: 29 May 2025
Date of Sentence : 13 June 2025

SENTENCE

(The complainant was 16 years of age at trial. Her name is suppressed and I shall refer to her as CX in these sentencing remarks)

1. Mr. Tikoitotogo, on 16 May 2025, after trial before this Court, you were convicted of rape, contrary to section 207(1) and (2)(a) of the Crimes Act 2009 (count 1), and sexual assault, contrary to section 210(1)(a) of the Crimes Act 2009 (count 2).
2. The factual basis upon which I sentence you today is set out in my Judgment dated 16 May 2025. For present purposes, it is sufficient to set out those facts in brief summary.
3. CX was your neighbour in the small settlement of Vunivolo. She called you 'uncle'. In October 2023, you lured her on the pretext of her running an errand to the shop for you. You pulled her into your house and threatened to kill her

if she cried before raping and sexually assaulting her by sucking her breast. You told her that you would kill her if she told anyone about what you had done to her. CX was just 14-years-old. Your offending only came to light when CX was found to be in her third trimester.

4. I must now proceed to impose a just and proportionate sentence for the totality of your offending.
5. On your behalf, Ms. Marama has filed written submission, and addressed me at your sentencing hearing. I have considered everything she advances on your behalf.
6. You are now 60 years of age and earn your living by farming root crops.
7. You have no previous convictions.
8. The maximum sentence for rape is life imprisonment. The Supreme Court has given a guideline judgment that the tariff for rape of a child is 11 years' to 20 years' imprisonment.
9. The maximum sentence for sexual assault is 10 years' imprisonment. The accepted tariff is 2 years' to 8 years' imprisonment.
10. Whilst sentences imposed by other sentencing courts provide broad guidance, there is a limit to the assistance that any sentencing court may glean from sentences imposed in other cases for similar offending. Every sentencing exercise is heavily fact specific, and must be approached as such.
11. It is also noteworthy that the accepted tariffs for the offences you have committed are wide. My task is to determine a just and proportionate sentence within those tariffs that properly reflects the totality of your offending across both counts.
12. Turning my attention to the purposes of sentencing as set out in section 4 of the Sentencing and Penalties Act, I have had regard to a combination of the statutory purposes.

13. Sentencing courts often remark that serious sexual offending against children warrants a deterrent sentence. Whilst this is undoubtedly so, it is difficult to measure the effectiveness of particular deterrent sentences. For my part, I am doubtful that those who would contemplate raping children would be deterred from doing so based on a calculation of the potential harsh penalties involved. Certainly, it has not been the experience of the courts that the harsher sentencing regime ushered in by the Supreme Court has brought about a reduction in abhorrent sexual offending against children.
14. Having said that, it seems to me that condign punishment of those who offend against children serves an important function. By denouncing sexual offending against children in the strongest terms, sentencing courts help to shape societal values. Education through denunciation reinforces law-abiding and decent citizens' rejection of sexual abuse of children.
15. My principal focus in determining a just and proportionate sentence in this case is to ensure that the sentence I impose adequately signifies that the court and the community denounce the commission of sexual offending against children.
16. I have decided that the best way to achieve a just and proportionate sentence reflecting the totality of your offending against CX is to take count 1 as the lead offence and to treat the other serious offending reflected in count 2 as a serious aggravating factor, and to impose a concurrent sentence on count 2.
17. I take 11 years' imprisonment as the appropriate starting point for your sentence.
18. Your offending is made more serious by the degree of planning involved in luring CX to your house, threats to kill her in order to both facilitate your offending and to avoid responsibility and, of course, the serious long-term consequences of your offending. CX had to endure an unwanted pregnancy during her schooling and that experience is bound to cause her continuing emotional distress.

19. Realistically, other than your clear record, there is very little that can be said in mitigation of sentence. Certainly, it has not been suggested that you are at all remorseful for your disgraceful behaviour.
20. In all the circumstances, I have concluded that the sentence that meets the justice of this case is one of 16 years' imprisonment. On Count 1, I sentence you to 16 years' imprisonment. On Count 2, I sentence you to 4 years' imprisonment concurrent.
21. You have been remanded in custody for a total period approaching 8 months, which is to be regarded as time served.
22. I am required to fix a period before which you shall not be entitled to apply for parole. Given that you are a first offender, I consider that a non-parole period of 10 years 8 months (less time served) would reflect the appropriate punitive element of your sentence, and also provide a reasonable incentive for rehabilitative efforts on your part.
23. I would encourage you to reflect at length on the inevitable harm that your offending has caused to CX, and to engage with any intervention programmes that may be available to you during your period of incarceration.
24. Mr. Tikoitotogo, for the reasons I have explained, the sentence I impose is 16 years' imprisonment, less the time you have already served on remand. Your non-parole period is 10 years from today.
25. You may appeal to the Court of Appeal within 30 days.




Hon. Mr. Justice Burney

At Labasa
13 June 2025

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