

**IN THE HIGH COURT OF FIJI**

**AT LAUTOKA**

**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO: HAC 135 OF 2023**

**STATE**

**V**

**AKUILA QAU**

Counsel : Mr J. Nasa for Prosecution  
Mr. R. Filipe for Defence

Date of Judgment: 20 August 2025

Date Sentence Hearing; 28 August 2025

Date of Sentence 29 August 2025

**SENTENCE**

1. Mr Akuila Qau, you were convicted after trial of one count of Rape on the following information filed by the Director of Public Prosecutions:

Statement of Offence

RAPE: Contrary to Section 207(1) and (2) (a) of the Crimes Act 2009

Particulars of Offence

AKUILA QAU on the 3<sup>rd</sup> day of September 2023 at Nadi in the Western Division, had carnal knowledge of LILIDAMU SEVERO, by penetrating her vagina with his penis, without her consent.

2. The facts of the case are that you met the victim at a drinking party at Wailoaloa Beach and consumed alcohol with a group of friends till midday. You forced her to get into your car saying that you needed her to buy lunch for them. She refused to go with you because you were drunk. You got angry and started swearing at her. She was scared. She had no option but to go with you. You drove her to a by-road opposite Nalagi Hotel and parked the car at a secluded place. You came out and opened the back door. You pulled her to the front seat and took off her clothes, while she was crying and resisting. You punched her thighs and threatened to kill her, showing a knife and wanted her to satisfy you. You then inserted your penis into her vagina and forcefully had sexual intercourse with her twice. She managed to come out and started to run along the road fully naked. You chased her while she ran towards the Queen's main road. The security guard of the hotel came for her rescue and covered her with a cloth. Two women came and took her to the police station.
3. The maximum sentence for Rape is life imprisonment. The sentencing tariff for adult rape ranges from 7 years to 15 years' imprisonment<sup>1</sup>. The starting point in an adult rape case is at least seven years' imprisonment. However, there are cases where the proper sentence may be substantially higher or substantially lower than that starting point, depending on the circumstances of the case<sup>2</sup>
4. In selecting a sentence that fits your offence, I must regard the proportionality principle enshrined in the Constitution and the sentencing principles set out in Section 4 of the Sentencing and Penalties Act 2009 (SPA). I would consider the maximum penalty prescribed for the offence, the current sentencing practice and the applicable sentencing guidelines issued by the courts in crafting your sentence. Having considered the seriousness of the offence and the harm caused to the victim, I would select the appropriate starting point. The final sentence will be determined after making appropriate adjustments for the aggravating and the mitigating circumstances.

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<sup>1</sup> Rokolaba v State [2018] FJSC 12 (26 April 2018); State v Marawa [2004] FJHC 338

<sup>2</sup> Kasim v State [1994] FJCA 25; Aau0021j.93s (27 May 1994) State v Marawa [2004] FJHC 338].; Rokolaba v State [2018] FJSC 12 (26 April 2018)

5. Sexual offences are on the rise and most prevalent in Fiji. The courts have emphasised that the increasing prevalence of this offence in our community calls for deterrent sentences. The duty of this Court is to see that the sentences are such as to operate as a powerful deterrent factor to prevent the commission of such offences. The offenders must receive condign punishment to mark the society's outrage and to denounce sexual abuse in our society. Protection of the community is equally important.
6. Having taken into consideration the seriousness of the offence, the culpability and the harm caused to the victim, I select a starting point of 8 years.
7. The Counsel from both sides filed helpful sentencing/ mitigation submissions for which I am grateful. The following aggravating and mitigation factors have been identified which will be used to make appropriate adjustments to the starting point:

Aggravating factors:

- (a). You committed this offence on a vulnerable victim when she was alone and drunk.
- (b). You assaulted the victim not only sexually but also physically when you punched, stripped her naked and made her run along a public road. The assault was degrading and humiliating.
- (c). You drove her in a car after consuming alcohol and committed this offence under influence of liquor.
- (d). The victim joined the drinking party to socialise because she trusted you. You breached that trust.
- (e). You showed the victim a knife and threatened to kill her.
- (f). According to the Victim Impact Statement the victim has suffered psychologically.

Mitigating Factors:

- (a). You are 33 years of age and married with two children. You are a security officer earning \$250 a week. You are the sole breadwinner of the family.
- (b). You are a first offender. You have maintained a clear record until you committed this offence.

8. According to the State, you had spent four months in remand before the trial. I would consider your remand period as part of your sentence already served. I add 2 years to the starting point of 8 years for the above-mentioned list of aggravating factors to arrive at an interim sentence of 10 years' imprisonment. I reduce 1 year for the mitigating factors to arrive at a sentence of 9 years' imprisonment.

9. You are relatively young and a first offender. I believe you have a good potential for rehabilitation. To balance rehabilitation with other sentencing purposes, I impose a non-parole period of 7 years.

10. Summary

Mr Akuila Qau, you are sentenced to an imprisonment term of nine (09) years with a non-parole period of seven (07) years. You are eligible for parole after serving seven (7) years in the correction facility.

11. You have 30 days to appeal to the Court of Appeal.



Aruna Aluthge

Judge



29 August 2025

At Lautoka

Solicitors:

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