

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No.: HAC 61 of 2023

STATE

V

SAIRUSI MAQOSA

Counsel : Mr T Tuenuku for the State
Mr V Savou with Ms R Raj for the Accused

Date of Judgment: 13 February 2026

Date of Sentencing Hearing: 20 February 2026

Date of Sentence : 6 March 2026

SENTENCE

1. Mr Sairusi Maqosa, on 13 February 2026, after trial before this Court, you were convicted of the manslaughter of your wife.
2. The factual basis upon which I sentence you today can be briefly stated.
3. At around 9am on the morning of 24 April 2023, your wife was on the verandah of your brother's house in Malau when you approached her and deliberately kicked her head three times. You were barefoot, but the kicks were delivered with sufficient force to knock her from the verandah. Your third kick knocked your wife unconscious. She remained unconscious.

4. You belatedly arranged for her to be taken to hospital, and your wife was seen at the Emergency Department of Labasa Hospital at 11.50pm on 24 April 2023. Upon examination, she was unresponsive and assessed as 4 on the Glasgow Coma Scale. She had suffered a brain injury and her airways were not functioning. She was intubated, without which she would have died. She required urgent attention and was transferred to the ICU at 2am on 25 April 2023. Her pupils were fixed and dilated and she was assessed as having suffered a significant traumatic head injury. In the early hours of 25 April 2023, the clinicians were fighting to keep her alive.
5. A decision was made to perform emergency surgery in order to give your wife the best possible chance of recovery. A large hematoma was evacuated from the right side of her brain. She survived surgery, but remained in a vegetative state.
6. Sadly, as a result of the serious harm you did to her on 24 April 2023, your wife passed away on 23 May 2023. She had suffered a severe traumatic brain injury with right-sided subdural hematoma (bleeding between skull and brain tissue). She also had pneumonia bilaterally, sacral bedsores and clinical systemic infection. In the opinion of Dr Bulanauca, the cause of death was infection, being the infection in her lungs and blood.

Sentencing submissions

7. The prosecution has filed brief written submissions drawing the Court's attention to *Samuela Vakaruru v. The State* Criminal Appeal No. AAU 94 of 2014 (Judgment dated 17 August 2018), in which the Court of Appeal recognised the current sentencing trend for the offence of manslaughter to be between 5 to 12 years' imprisonment. The Court of Appeal stated that there was no requirement to establish a new tariff. The Court also acknowledged that a sentencing court may deviate from this range, in which case the sentencer should provide reasons.

8. The statutory maximum penalty for manslaughter is 25 years' imprisonment.
9. Mr Tuenuku submits that your culpability is high. You made a conscious and deliberate decision to inflict serious violence on your wife by repeatedly kicking her head. Mr Tuenuku draws the Court's attention to two aggravating factors. You were supposed to protect your wife, and you breached that duty of trust by taking her life. You mounted a sustained attack on your defenceless wife.
10. You have two previous convictions that are irrelevant for present purposes. You were also sentenced to a suspended sentence of imprisonment in 2015 for the offence of assault occasioning actual bodily harm. It was accepted at your sentencing hearing that this offending was against your wife.
11. Mr Savou has made written and oral submissions on your behalf in mitigation.
12. You are a 48-year-old fisherman. You had four children with your late wife. You have the care of the younger two children who are in secondary school. You also support your elderly mother financially. Mr Savou describes you as a very hard working and dedicated father. At your sentencing hearing, Mr Savou even went so far as to say that you were a loving and devoted husband, notwithstanding your conviction for causing bodily harm to your wife in 2015.
13. In reality, Mr Savou was constrained in what he could say on your behalf because you continue to maintain your innocence. He quite properly made the point that, on the facts that I have found, you were barefoot and did not use a weapon in the course of attacking your wife.
14. Mr Savou submits that you have good prospects of rehabilitation and invites the Court to partially suspend any sentence of imprisonment.

Discussion and disposal

15. It is appropriate to say at the outset that no sentence could begin to equal the harm you caused when you took your wife's life. You not only deprived

your wife of her future, you also deprived your children of her motherly love and care.

16. The context for this sentencing exercise is domestic violence.
17. Domestic abuse occurs amongst people of all ethnicities, religions and beliefs. It is not a problem unique to Fiji, but it is no exaggeration to state that it is a serious scourge on our society. It is corrosive of family life and often, as in this case, destroys families.
18. Domestic abuse offences are regarded as particularly serious within the criminal justice system. It can inflict lasting trauma on victims and their extended families, especially children and young people who either witness the abuse or are aware of it having occurred. The domestic context of your offending makes your offending more serious because it represents a violation of the trust and security that normally exists between people in a family relationship.
19. 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. Sentencing courts have a discretion to impose sentences within a permissible range.
20. My task is to determine a just and proportionate sentence that serves the purposes of sentencing and properly reflects all the circumstances of your offending behaviour.
21. Turning my attention to the purposes of sentencing as set out in section 4 of the Sentencing and Penalties Act 2009, I have had regard to a combination of the statutory purposes. I attach particular weight to denunciation and deterrence.
22. I begin by assessing the objective seriousness of your offending. For all cases of manslaughter the harm caused will inevitably be of the utmost seriousness.

In my judgement, your culpability is high. I find that your unlawful act in repeatedly forcefully kicking your wife's head carried a high risk of causing her really serious harm, which was obvious to you. I consider that the objective seriousness of your offending warrants a starting point of 10 years' imprisonment.

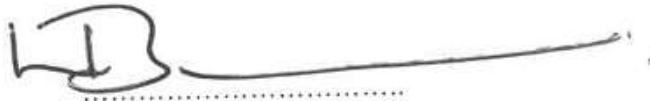
23. In my view, the following factors make your offending more serious:
- (i) I have no doubt that you caused your wife significant mental and physical suffering in the weeks leading to her death;
 - (ii) Your attack on your wife was clearly premeditated and calculated;
 - (iii) Your sustained attack on your wife was a gross breach of trust;
 - (iv) You have a history of violence towards your wife.
24. In my view, the aggravating factors warrant an upward adjustment of 2 years. I have been careful not to double count any of the factors that I took into consideration in assessing the objective seriousness of your offending. Your lack of remorse is not an aggravating factor.
25. In my judgement, you have no effective mitigation. You are a fully matured man and should have known better than to act as you did. I do not find that you were provoked. Moreover, it is important to make the point that provocation is no mitigation to an offence within a domestic context. You have shown no insight into your offending behaviour, and I can discern no indication that you genuinely recognise the need for change. What assistance you did give to your wife was too little much too late.
26. Balancing aggravating and mitigating factors leads me to conclude that the just and proportionate sentence in all the circumstances of this case is one of 12 years' imprisonment.
27. Whilst I do not share Mr Savu's assessment of your prospects for rehabilitation, I fix your non-parole period at 8 years. This sends a strong punitive message

to like-minded domestic abusers, whilst also providing an incentive for rehabilitative efforts on your part. I urge you to reflect at length on the damage you have inflicted on your family and truly hope that you will be a better man upon your release from prison.

28. I reduce your sentence by 1 month to reflect your time in custody pending disposal. Accordingly, you are sentenced as follows:

- (i) Count 1: Manslaughter, contrary to section 239 (a), (b) and (c) (ii) of the Crimes Act 2009: 11 years' 11 months' imprisonment.
- (ii) Non-parole period: 7 years 11 months.

29. You may appeal to the Court of Appeal within 30 days.



Hon. Mr Justice Burney

At Labasa

6 March 2026

Solicitors

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