

**IN THE HIGH COURT OF FIJI AT SUVA  
CRIMINAL JURISDICTION**

CRIMINAL Case No: HAC 286/ 2025

**STATE**

--v--

**K. T**

**Counsel:** : Ms. Dugan Katarina for the State  
: Ms. Singh Manisha for the Juvenile

**Date of Punishment :** 10<sup>th</sup> February, 2026

**PUNISHMENT**

**The names of the Juvenile Offender and complainant are suppressed and will be referred to as “K.T” and “S.M”.**

[1]. K.T you pleaded guilty on your own free to the following offence as per Information filed by the Director of Public Prosecutions on 13<sup>th</sup> November, 2025;

**Representative Count**  
**Statement of offence**

**RAPE:** Contrary to **section 207 (1) (2) (a) and (3)** of the *Crimes Act 2009*.

**Particulars of Offence**

**K. T** on an unknown date between the 1<sup>st</sup> day of May, 2024, and the 30<sup>th</sup> day of November, 2024 at Yanuca Village, Serua, in the Central Division, penetrated the anus of **S. M**, under the age of 13 years with his penis

[2]. You also admitted to the Summary of Facts read and explained to you. The facts revealed that, you were 13 years old and the complainant was 8 years at the time of the offending. You both live at Yanuca Island, Serua.

[3]. On an unknown date between 1<sup>st</sup> May, 2024 and 30<sup>th</sup> November 2024, the complainant, S. M sought permission from his class teacher to visit the rest room. He then saw you following him from behind. Upon arrival at the restroom you closed the door behind and requested S.M to remove his school trousers. S.M refused to do so. You then

forcefully removed S.M's trousers and made him lie down on the restroom floor. You removed your trousers too. After having removed your trousers, you inserted your penis and penetrated S.M's anus. After having done that, you got up, put on your trousers, opened the restroom door and walked out.

- [4]. On another occasion, between 1<sup>st</sup> May 2024 and 30<sup>th</sup> of November 2024, S.M was walking home from school. He was walking along a walkway when you approached him. You requested S. M to pull his trousers halfway down, lean against a rock and bend over. You again inserted your penis and penetrated S. M's anus and he felt pain. When S.M was asked if anyone saw what happened, the latter states that he saw Josua and Atu, children of one of the teachers. S.M proceeded straight home after you had raped him. He did not report to anyone as to what had happened that date.
- [5]. On 30<sup>th</sup> November 2024, Vulina Cakaucoko saw the complainant and two other boys playing inside K.T's house. The boys were enacting or demonstrating how to have sex when she entered and lectured them, stating that they were too young to do that. The complainant then informed Vulina that K.T had raped him. K.T then entered the house and Vulina questioned the latter about what the complainant had informed of her of. K.T admitted that he had raped the complainant.
- [6]. Vulina then informed the complainant's parents as to what had happened to their son. The matter was reported to the Turaga-ni-koro. He then reported it to the Police.
- [7]. The complainant was medically examined by Doctor Matelita of Navua Hospital. In paragraph D(12) of the Medical Report dated 2<sup>nd</sup> December, 2024, the doctor noted that the complainant's anus looked inflamed and tender.
- [8]. The court finds you guilty as charged. You are a first offender.

### **Law and Tariff**

- [9]. Rape carries a maximum punishment of life imprisonment.
- [10]. A new tariff has now been set for child rape in the Supreme Court of Fiji decision in **Aitcheson v State [2018] FJSC 29; CAV 0012.2018** (2 November 2018) whereby in paragraph 25, the Court held that:

*"The tariff previously set in Raj v State [2014] FJSC 12; CAV 03 of 2014 (20 August 2014) should now be between 11-20 years imprisonment. Much will depend upon the aggravating and mitigating circumstances, considerations of remorse, early pleas, and finally time spent on remand awaiting trial for the final sentence outcome. The increased tariff represents the denunciation of the courts in the strongest terms".*

## Sentencing Guidelines

[11]. Before punishing the Juvenile offender, this court has considered section 4(1) and 4(2) of the Sentencing and Penalties Act, 2009.

[12]. In the case of *Moses Nariva v the State [2006] FJHC;HAA 0148J 2005*, the accused was a young offender of 17 years old, juvenile. He was a first offender who pleaded guilty without wasting time of court and was remorseful. Madam Justice Shameem stated;

*"the courts must always make every effort to keep young first offenders out of prison. Prisons do not always rehabilitate the young offender. Non-custodial measures should be carefully explored first to assess whether the offender would acquire accountability and a sense of responsibility from such measures in preference to imprisonment"*.

## Law regarding Juvenile Offenders

[13]. Section 30 of the *Juvenile Act, 1973* states;

1. **No child should be ordered to be imprisoned for an offence.**
2. **No young person shall be ordered to be imprisoned for an offence, or to be committed to prison in default of payment of a fine, damages or costs, unless the court certifies that he is of so unruly a character that he cannot be detained in an approved institution or that he is of so deprived a character that he is not a fit person to be so detained.**
3. **A young person shall not be ordered to be imprisoned for more than two years for any offence.**

[14]. No child can be ordered to be imprisoned for any offence, however, in the event that they are ordered to an imprisonment term, they cannot be imprisoned for more than 2 years.

[15]. In this case, at the time of offending the juvenile was 13 years old and the victim was 8 years of age. They both attend the same Primary School.

[16]. The Juvenile has been remanded at the Boys Centre since 4<sup>th</sup> October, 2025, a period of over 4 months.

## Reports before the Court has to consider Victim Impact Statement

[17]. The victim has provided a statement of how the Juvenile Offender's conduct has affected his life. He states that he feels scared, weak and does not socialize with other people.

## **Social Welfare Report**

[18]. The Social Welfare Officer in his Assessment Report states that during the interview the juvenile was remorseful, cooperative and respectful. He lives with his grandparents and uncle in Navua. His father resides elsewhere.

[19]. From the time the juvenile has been remanded in the Boy's Centre, his family has observed significant changes in his behavior. According to the juvenile's father, his son now listens attentively and demonstrates better understanding and shows increased maturity.

[20]. The juvenile whilst in remand has participated in various rehabilitation program, including individual counselling sessions with Social Welfare Officers and counselling through Empower Pacific, life skills training Inspire Pacific, literacy and numeracy classes, and art programs.

[21]. Furthermore, he states that the juvenile has shown genuine motivation to change as indicated in his positive behavioural adjustments and his proactive efforts to assist staff and peers within the Centre.

[22]. The officer suggests that:

- (i) **the juvenile continue with counselling and psychological support with Social Welfare officers and Empower Pacific to address substance abuse and decision making.**
- (ii) **Education Re-intergration into formal schooling at Lomary Secondary School or another suitable institution; and**
- (iii) **To participate in supervised community service programs and engage in character building and life skills session.**

[23]. Case officer respectfully recommends that the Court consider a rehabilitative, non-custodial approach, exercising the provisions of the Community Based Corrections Act, 2018 in deciding a punishment for the juvenile. In doing so, this will ensure the following:

- (i) **Mandatory individual and substance abuse counselling.**
- (ii) **School reintegration to allow continuation of education.**
- (iii) **Community service to promote accountability, responsibility for his actions and serve a punishment.**
- (iv) **Continued supervision by Welfare Officer.**

### Mitigation and Sentencing Submission

[25]. This court has considered the mitigating factors submitted by Ms. Manisha Singh of the Legal Aid Commission. Ms. Singh submitted a well-structured and comprehensive submission enclosing case laws to assist the Court.

[26]. The Learned State Counsel, Ms. Katarina Dugan has also submitted a well written sentencing submission which the Court finds helpful.

### Punishment

[27]. Having considered all the above factors, the juvenile is punished for 2 years imprisonment suspended to 4 years effective forthwith.

[28]. The following conditions are imposed on the juvenile;

- (i) **The juvenile will be placed under probation with the Social Welfare Department for four years. The terms of the probation are to be determined by the Social Welfare Department in consultation with the Probation officers or Community Volunteers and the parents.**
- (ii) **The juvenile's father is to sign a good behavior bond on behalf of the juvenile in the sum of five hundred dollars.**
- (iii) **The Social Welfare Department is to immediately arrange for the counselling of the juvenile in the presence of his parents with the view of assisting him in keeping away from conflict with the law.**
- (iv) **The Social Welfare Department is also at liberty to work out any Programs or plans which will be in the interest of the juvenile.**
- (v) **It is the responsibility of the parent of the juvenile to ensure that the juvenile obeys any directions given by the Social Welfare Department.**
- (vi) **A copy of this punishment is to be served on the Officer in Charge of the Social Welfare in Suva and Navua.**

### Appeal Period

[29]. 30 days to appeal to the Court of Appeal.



Dated at Suva this 10<sup>th</sup> day of February, 2026.

**Solicitors:** Office of the Director of Public Prosecution, Suva – For the State  
Legal Aid Commission – For the Accused