

IN THE HIGH COURT OF SOLOMON ISLANDS (KIRA KIRA CIRCUIT)

CRIMINAL JURISDICTION

Criminal Case Number 209 of 2023

REX -V- NELSON NGIRI

Date of Hearing: 04/09/2025.

Date of Sentence: 08/09/2025.

Counsel; Mr. Vaike and Mr. Fanasia Junior for the Crown.

Counsel; Mr. Brooke for the Defendant.

KENIAPISIA; PJ:

VERDICT AND SENTENCE

1. Mr. Nelson Ngiri (NN) is the uncle of Wonter Hilda (WH). Mr. NN raised WH as his adopted daughter. NN comes from Mangoara settlement via Tawarahamare village, Arosi 2, Makira Ulawa Province. He is 64 years old in the year 2025.
2. Ms. WH was born on 24/10/2012. The first time that her adopted father NN sexually abused her, she was 10 years old in the year 2021. By the time of the third incident of abuse in the year 2022, she was 11 years old.
3. Mr. NN is charged for persistent sexual abuse of a child contrary to Section 142 (2) and Section 139 (1) (a) of the Penal Code (Amendment) (Sexual Offences) Act (No. 3 of 2016). The charge arose from three separate incidents.

First incident

4. The first incident occurred on an unknown date between **1 January 2021** and **31 December 2021** at their family home at Tawarahamare village. Mr. NN forced WH to hold his erect penis and to suck his penis. NN told WH to lie down and he removed her clothes, licked her vagina and inserted his index finger into her vagina. WH, was in grade 1 at Ngonihau Primary School, Arosi 1 area, Makira Ulawa Province.

Second incident

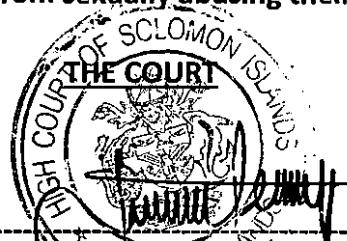
5. The second incident occurred on an unknown date between **1 January 2022** and **31 January 2022** at the family home at Hawaibora village, Arosi 1. NN forced WH to hold his erect penis and to suck his penis. NN then told WH to lie down and he licked her vagina and inserted his pointing finger into her vagina. WH was in grade 2, Ngonihau Primary School.

Third incident

6. The third incident occurred on an unknown date between 1 June and 30 June 2022 at a nearby bush close to Mangoana settlement, Arosi 2, when WH went home to have her mid-year holiday. NN led WH into the bush. He cut some leaves, put them on the ground and told WH to lie on top of them. NN then inserted his finger inside her vagina and licked her vagina.
7. I arraigned Mr. NN on 4/9/2025. Mr. NN entered a guilty plea. I convicted NN as charged. Now I have to determine the appropriate punishment.
8. I should start by saying that this is a very serious crime as reflected in the prescribed punishment of life imprisonment. There are other reasons for the seriousness of this crime – the young tender age of the victim, the serious betrayal of trust (NN is the uncle or adopted father of WH, the victim) and the physical and psychological harm that the victim will suffer for the rest of her life.
9. The starting point sentence for unlawful sexual offences under Section 136F and Section 139 of the 2016 Act, for a child under the age of consent (16 years), in a non-contested matter is 8 years according to Sinatau, Court of Appeal 2023. Hence, I will start at 8 years, given that WH was a 10 years old victim and that this is a sexual offence under Section 139 (1) (a) of the 2016 Act.
10. Due to the peculiar circumstances of this case (see paragraph 8 above – serious betrayal of trust, young tender aged victim, physical and psychological harm and their long-term impacts on the victim) I will depart and start at 12 years. This is permissible under Pana, Court of Appeal 2013 and Sina, Court of Appeal 2013.
11. I identify the following serious aggravating factors: -
 - (i) Breach of position of trust
 - (ii) Pre-planning
 - (iii) Very young age of the victim (10 years at the time of the first incident)
 - (iv) Age disparity
 - (v) Weak and vulnerable
 - (vi) Offence committed in the comfort of the home (turned the safety of the home into a crime scene for the victim).
 - (vii) Psychological harm and trauma
 - (viii) Physical harm and injury
 - (ix) Repetitive offending
12. For all of the above 9 serious aggravating factors combined, I will uplift the start point sentence by 9 more years (1 year for each aggravating factor). Increases due to serious

aggravation should be made in years, not merely in weeks and months (Bade, Court of Appeal 2023). That will bring me to 21 years aggravated head sentence before mitigation.

13. I determine the following mitigation factors to reduce the aggravated head sentence downwards: -
- (i) **Early guilty** – I mentioned this matter last June and Mr. NN pleaded not guilty. So, this is not a real and genuine early guilty plea. Nevertheless, it saves trial time and expenses. I will give 25 percent reduction instead of the normal 30 percent, ordinarily granted for a genuine early guilty plea. That comes to 5.25 years rounded to 5 years.
 - (ii) **First time offender with no previous conviction** – 2 years.
 - (iii) **Cooperation with police** – 1 year
 - (iv) **Delay** – 1 year
 - (v) **Rehabilitation** – 3 years.
14. I will sentence NN to 9 years imprisonment (21 years aggravated head sentence minus 12 years mitigated head sentence). I will nevertheless make a big reduction down to 6 years only because of old age. The summary of agreed facts puts NN's age at 64 years. Life expectancy for men in the Solomon Islands is between 63 to 66 years (Togavi -v- Regina (2009) SBHC 63; HC SI – CRC 50 of 2009 (30 October 2009)). The High Court held in Togavi that old age is an important factor that must reduce a sentence for a defendant. The Court must recognise that each year of a sentence in the correctional centre represents an unusually substantial proportion of the period of life left to an aged offender.
15. The Court must consider the “reasonable expectation of usual life” after release from the correctional service. For an old-aged man like NN, there is not much of “usual life” left after release. He will turn 70 years at the time of release. He will grow very old and fragile by the time of release. In view of old age, I have given a big reduction of 3 years.
16. **Mr. NN I will convict you as charged premised on your guilty plea and agreed facts. I will sentence you to 9 years imprisonment. I will cut it down to 6 years only in view of your old age. You will also be entitled to further reductions for pre-trial detention time, as the correctional authority may determine. This punishment is to teach you a lesson and to deter other men in our villages from sexually abusing their daughters.**



 JUSTICE JOHNA KENIAPISIA
 PUISNE JUDGE