

IN THE HIGH COURT OF SOLOMON ISLANDS.

(FAUKONA, DCJ).

Criminal Case NO. 300 of 2025.

REX V WALTER TALU.

Mr. S. Beto for the Crown.

Mr. B. Harunari for the defendant.

Date of submissions: 13th October 2025.

Date of Sentence: 17th October 2025.

SENTENCE AFTER PLEA OF GUILTY.

Faukona, DCJ.

Introduction.

1. The defendant Mr. Walter Talu was charged with the offence of rape contrary to section 136F (1) (a) (b) of the Penal Code as amended by the Penal Code (Amended) (Sexual Offences) Act 2016.
2. The defendant was arraigned on 13th October 2025 and he entered a plea of guilty. The offence of rape according to the above section carries life time imprisonment.
3. The defendant and the victim come from the same village of Futuna on Manaoba Island, North Malaita, Malaita Province. The defendant was 16 years old at the time of offending and the victim Regina Ruketa was 6 years old. Both are related as cousins.

Agreed facts of the case.

4. The offence was said to have been committed on 8th May 2025 around 11am at Futuna Village, Manaoba Island, North Malaita.

5. It occurred when the victim was on her way to a local store when the defendant called her to go to him. The victim complied and went to him.
6. The defendant then held the victim's hand and led her into his grandparent's house. He laid her down on a bed and removed her clothes. He pushed his fingers into her vagina until the victim was crying and he let her go.
7. The victim was crying and ran home to her grandmother. She told her grandmother what the defendant had done to her. Her vagina was bleeding and swollen.
8. Her mother took her to Maluú clinic for examination and treatment on the same day. According to the medical report dated 9th May 2025, the victim suffered vaginal tear and bruising on the vaginal wall. The hymen was completely destroyed. The victim was slightly traumatized crying during examination.
9. The matter was reported to Maluú Police and investigation followed. The defendant was charged with rape and remand in custody on 16th May 2025 until today.

Sentencing Principles.

10. These sentencing principles had been evolved from court precedents some years ago. Over the years they have been modified and eventually they have become what they are today. The status quo has never ripped off but stand as they are. Too often the Courts refer to as guiding stars.
11. They demand that when determining appropriate sentence, the Courts must maintain a balance approach in sentencing¹.
12. The principles guide the exercise of sentencing discretion which often refer to as deterrence, prevention, rehabilitation and retribution. A sentencing Judge is to decide which principles to apply in a given situation. In some cases, a Judge will give a balance

¹ R v Timothy Sulega (Unrep. Criminal Review Case NO. 113 of 1999)

consideration of all the principles. In other cases, a Judge will emphasize one principle over the other².

13. The question the Court must ask itself is whether the public interest in the case will be served by retribution and deterrence of the offender and others from committing the same offence, or whether the public interest will be better served by rehabilitation of the offender³.
14. In this case the Crown submits that the relevant principles are deterrence and rehabilitation.

Sentencing method (Starting Point).

15. The sentencing method adopted by the Courts in this country is now common and would not be appropriate to rehearse them again, suffice to briefly touch on.
16. Following the sentencing structure, published sentencing remarks should include, inter alia, the identified starting point, followed by an adjustment after taking into account the seriousness of the offence (aggravating factors). Then consider the mitigating factors, if to suggest the sentence is too harsh⁴. Reference should be made to plea of guilty, where discount or not be taken that should appear in the remarks.
17. This requires a Judge to set out what he regards as aggravating and mitigation when he intends to take them into account in the final sentence, or reasons why he intends not to take them into account.
18. The Crown submits that the Court of Appeal in the case of *Pana v R*, established that when the victim is a child below the age of consent, that should always bring the starting point to 8 years⁵. It was reaffirmed in the case of *R v Sinatau*⁶. In the current case the age of the victim is 6 years, therefore the appropriate starting point is 8 years.

² *Johnson Tariani v R* (1988-89) SILR 7

³ *R v Maeli Rinau* (Unrep. Criminal Review Case NO. 18 of 1999)

⁴ *Bare v R* (2018) SBCA 10 SICOA – CRAC 36 of 2017 (11/5/18)

⁵ (2013) SBC 19

⁶ *R v Sinatau* SICOA – CRAC of 2023 (13/10/23)

19. That submissions differs from the defence submissions. The defence start of by pointing out that the cases of Bade and Sinatau should not be considered as they involved adult offenders. It would appear the Counsel is pursuing an approach taking into account the Juvenile Offenders Act section 14. In supporting his methodology, he makes reference to the cases of R v N⁷ and R v Leve⁸.
20. In the case of R v N⁹, His Lordship CJ referred to a paragraph in the case of R v Ligiau and Dori, which identified two starting points. One is 5 years in a contested case and the other is 8 years where rape was committed by a person in a position of responsibility towards the victim, and other grounds.
21. His Lordship also list down aggravating factors, and I note the relevant one is that the victim is very old or very young.
22. Sadly, the case of Ligiau and Dori had been overruled as a good precedent by the Court of Appeal in the case of R v Sinatau¹⁰.
23. Despite acknowledging the revelation of the two starting points, His Lordship identify 8 years from the Billam's case. The guideline that after identifying the starting point then adjustment be done after considering the aggravating factors, thereby accelerating the starting point to head sentence was not done. And decrease the head sentence upon considering the mitigating factors before arriving at a final sentence. That was not done as well, in fact His Lordship only consider the aggravating factors then balancing it out with the mitigating factors and hence arrived at the final sentence of 5 years imprisonment.
24. In the case of R v Leve, the Judge identified 3 years as a starting point. There was no acceleration to the starting point after consideration of the aggravating factors. There was no decrease to the head sentence after considering the mitigating factors. The Judge

⁷ (2012) SBHC 103; HCSI CRAC 262 of 2009 (14 August 2012)

⁸ (2020) SBHC 43; HCSI. CRC 549 of 2019 (29 June 2020)

⁹ (Ibid 7)

¹⁰ (2023) SBCA; SICOA CRAC 9027 of 2023 (13/10/23)

merely consider the aggravating factors and the mitigating factors and he arrived at 2 years imprisonment.

25. In the case of R v Leve, the Judge was fully aware of the guidelines that first a Judge should identify a starting point. In fact, he started of good but ignore the guidelines set out in Bara v R¹¹. The case of Bara was decided in 2018 and the Judge should well aware of and comply.
26. In this case, the Law is very clear. In the case of R v Sinatau¹² the Court of Appeal stated at paragraph 14, that the starting point for the uncontested rape of a child is 8 years.
27. In the current case, the defendant was charged for raping a 6 years old child. His youthfulness as a Juvenile can only account for as a mitigating factor, but does persuade the Court to deal with it under the Juvenile Offenders Act. The two cases the defence counsel refer to above, which I have discussed, do not convince the two Judges, even to ultimately resort to the kind of punishment expounded in section 16 of Juvenile Offenders Act.
28. Therefore, with the current law being in force, thus I must comply, and identify 8 years as a starting point in this case.

Aggravating factors.

29. Having identified the starting point, it is legally required to move on and consider the aggravating factors.
30. The first aggravating factor is the age of the victim which is 6 years old. The aggravating effect is that the victim is of tender age and still do not understand the sexual nature and intimacy relationship. The effect will usually be greater, the younger the child. She is a weak vulnerable child. She cannot fight back. The defendant exploited her weakness, pulled her into a house and raped her.

¹¹ (2018) SBCA 10; SICOA – CRAC 36 of 2017 (11 May 2018)

¹² Ibid (10)

31. Physical harm and injuries; the effect or harm after the rape done to the victim could have quite a long-lasting effect most likely mental or psychological. The laws are made for the purpose of protecting such vulnerable persons and the community.
32. The medical report stated that the victim suffered some physical injuries as a result of offending. She suffered vaginal bleeding and swelling. There were tear and bruising on her vagina. The victim was crying in pain after the offending and during examination. The whole hymen was ruptured. The act of rape is physical violence on the victim and physical harm is inherent.
33. The victim and the defendant are family related as cousins in custom. The defendant as a cousin brother has a moral duty to protect and care for the victim. She trusted him as she was willing to comply with his request when he called her. Instead he grabbed her hand and pulled her into a house and raped her. He abuses the trust and take advantage of it.
34. Age disparity; age disparity here is 10 years. The defendant was a Juvenile or child according to the definition in section 4 of the Penal Code Amendment Act 2016. 10 years age disparity may not be so great, but the seriousness of the offending is when the law looks at the age of the victim which is 6 years. The trauma she will undergo will be a long-term impact. In this case there were real physical harm.
35. With these aggravating factors and a starting point has been set, it is inevitable that a custodial sentence is appropriate. I therefore accelerate the starting point by 3 years making the head sentence to 11 years imprisonment.

Mitigating Factors.

36. The defendant plead guilty at the first opportunity. I give him credit for that. I also accept it as consistent with being sorry for what you have done and express remorse on your part. It also show you are not only remorseful and sorry for your actions, but is courageous enough to face up to his own actions and the consequences that normally flow from it.



37. The effect of guilty has also saved the victim from all the embarrassment, shame and indignity that have been caused and having to relive that incident.
38. This has saved Court's time, expense and resources, without proceeding this case for trial.
39. I also give credit for this is your first time to encounter with the law. You have no previous conviction record and had been a good law-abiding citizen until arrested for this offence.
40. Period of pre-trial custody is always taken into account with deductions, and I do so in this sentence.
41. And I therefore deduct 2 years from the head sentence of 11 years, making it a balance of 9 years.
42. As I must reiterate again that sentencing a rape defendant is difficult and sensitive in this area of law. The fact is that rape is a very serious charge under our laws, it entails violation of the dignity, and affect the person of the victim. It is an offence of violation based on selfishness and disregard of the feeling of the victim. Psychological trauma and harm could have a long-lasting effect upon the victim.
43. I noted the defendant is a young person of 16, you are expected to know better and stay away from committing this kind of immoral offence. You are too young to start a downward journey of unlawful activity. You should select to live a life more useful in pursuit of benefit for yourself and family, and community, instead of being a liability to the community.
44. This sentence will demonstrate the far-reaching arm of the law; to deter you not to repeat the same after releasing from prison. It also gives a warning to your community and public at large that the Courts are ready to deal with any such offending according to law.

45. The custodial sentence imposed in this case is a response to the immediate call by the legislatures, because of the prevalent occurrence of this type of offence in this country. Firstly, it marks the gravity of the offence, then it emphasizes the public disapproval, it also served as a warning to others. And also, to punish the offender and lastly to protect women and girls¹³.
46. Finally, and make the following orders;

Orders:

1. The defendant is found guilty on his own admission of the charge.
2. He will serve 9 years in prison, 2 years will be suspended for 2 years on good behavior bond. He will serve 7 years in prison.
3. Time spent in custody will be deducted from the 7 years.

The Court.



Hon. Justice Rex Faulkna.
DEPUTY CHIEF JUSTICE.

¹³ R v Roberts and Roberts (1982) 13 Cr, App. R(S) hard Lake CJ, Mann J and Sir Roger Orrrod.