



**IN THE CENTRAL MAGISTRATES COURT OF SOLOMON ISLANDS  
AT HONIARA**

(Criminal Jurisdiction)

Criminal Case No: 489 of 2019

**REGINA**

-V-

**KEVIN RIETVELD**

Coram: HOLLISON F (PRINCIPAL MAGISTRATE)

*Appearances:*

DPP Ms Rachel Olutimayin for the Crown

Mr Rodney Manebosa, Senior legal Officer, Public Solicitors Office, for the Defendant

**Date: 26<sup>th</sup> November 2019.**

Notice: *This copy of the Court's Reasons for Sentence is subject to formal revision prior to publication.*

**SENTENCE**

**INTRODUCTION**

1. The Defendant Mr Kevin Rietveld, born 30<sup>th</sup> January 1947, 72 years Australian citizen pleaded guilty to seven counts of indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26]<sup>1</sup> against four young girls.
2. Mr Rietveld was convicted by this court for the seven counts of indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26] based on the pleas entered.
3. It must be noted that the various offences that Mr Rietveld committed in the present case occurred between 2010 and 2012, which is prior to the enactment of the *Penal Code (Amendment) (Sexual Offences) Act 2016*<sup>2</sup> in 2016.
4. The reasons for his sentence are enumerated below.

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<sup>1</sup> *Penal Code* [Cap 26], s 141(1)

<sup>2</sup> *Penal Code (Amendment) (Sexual Offences) Act 2016*.

## Pre Sentence

5. On 24<sup>th</sup> June 2019, Mr Rietveld was charged and appeared in court for a remand hearing. He was remanded in custody and the matter was adjourned till 26<sup>th</sup> June 2019.
6. From 26<sup>th</sup> June 2019, he was further remanded every 14 days until 2<sup>nd</sup> August 2019 when he was granted bail. He was in custody for 1 month and 9 days.
7. On 9<sup>th</sup> October 2019, the Crown applied to revoke the defendant's bail because he breached the conditions of his bail not to interfere with or contact the Prosecution witnesses.
8. His bail was revoked on 11<sup>th</sup> October 2019 and he has been remanded since that day.

## Antecedents

9. Mr Rietveld's antecedents are as follows:

- 1) **Age:** He was 63 at the time of offending. He is now 72 years old.
- 2) **Marital Status:** He is married
- 3) **Number of three children:** Three sons
- 4) **Previous Conviction:** Nil

## FACTS AND BACKGROUND

### Background

10. Mr Rietveld was born on the 30<sup>th</sup> January 1947. He is now 72 years and a citizen of Australia.
11. He was charged on 24<sup>th</sup> June 2019 with 9 counts of indecent assault against 5 local girls. The offences are alleged to have been committed between 2010 and 2012 when he was the Director of Small Workshop in Mission (SWIM) based at Lungga area of East Honiara on Guadalcanal, Solomon Islands.
12. The defendant was a leader and the director of SWIM from 1998 to 2012. Amongst other programs, the Mission he worked for provided financial support for the education of children who needed financial assistance. All the complainants or the victims were young girls who were financially supported by the Mission at all the relevant times between 2010 and 2012.
13. The Royal Solomon Islands Police Force ("RSIPF") became aware of the allegations against the defendant in 2013 and commenced investigation. In January 2019, the defendant through a letter contacted RSIPF acknowledging that he is aware of the allegations made against him and offered to return to Solomon Islands to assist the Police with inquiries.
14. On 23<sup>rd</sup> June 2019, the defendant arrived in Honiara. On 24<sup>th</sup> June 2019, he attended RSIPF NCID Sexual Assault Unit Office at Rove, Honiara where he participated in a caution interview.
15. On 24<sup>th</sup> June 2019, he was charged and appeared in court for a remand hearing. He was remanded in custody for 14 days and the matter was adjourned till 26<sup>th</sup> June 2019.
16. He was further remanded until 2<sup>nd</sup> August 2019 when he was granted bail.

17. On 7<sup>th</sup> October 2019, the DPP received correspondence from the PSO advising that the defendant offers to plead guilty on 7 out of 9 counts against him in exchange for the Crown offering no evidence on the other 2 charges which he refutes strongly.
18. On 9<sup>th</sup> October 2019, the Crown applied to revoke the defendant's bail because he breached the condition of his bail not to interfere with or contact the Prosecution witnesses. His bail was revoked on 11<sup>th</sup> October 2019 and he has been remanded since that day.
19. The DPP accepted that offer.
20. On 10<sup>th</sup> October 2019, parties filed a document-Table of Pleas to the Charges, which set out that the defendant pleads guilty to counts 1, 2, 3, 4, 5, 8, and 9 and the Prosecution offers no evidence on counts 6 and 7.
21. On the 15<sup>th</sup> October 2019, the defendant pleaded guilty to counts 1, 2, 3, 4, 5, 8, and 9. The Crown informed the Court that they would not offer evidence on counts 6 and 7 and subsequently withdrew both counts in accordance with section 190(2) (b) (1) of the *Criminal Procedure Code (CPC)*.<sup>3</sup>

**The relevant Facts:**

**Count 1: Indecent Assault on Victim 1<sup>4</sup>, CM on an unknown date between 1<sup>st</sup> of January 2010 and December 31<sup>st</sup> 2010, at the seaside at Lungga area, Honiara.**

22. CM was born on 14<sup>th</sup> November 1997. She was 12 years old at the time of the offending. In 2010 when she was in grade 4 and living with her aunt Daisy in the Lungga area, she attended Lungga Primary School. She often visited the SWIM area managed by the defendant who she knew since 2009 as SWIM provided sponsorship for her schooling. The defendant often took her and other kids to the seaside for swimming in the Omex Timber Mill, Lungga area in Honiara.
23. Sometimes in 2010, the defendant took CM and other kids for a swim at the seaside. The defendant drove them there in his vehicle. As CM was swimming, the defendant called her over so she swam over to him. He asked her how school was that day whilst he was behind her. The defendant moved his hands in and under her shirt and commenced feeling her breasts. CM was not happy and told the defendant that they should go back. The defendant did not reply and CM swam back to the shore and followed the other kids onto the truck to wait for the defendant to drive them back to the SWIM area. When the defendant returned, he drove them back. One of the girls Amanda Perpetua asked CM what the defendant did to her. CM did not feel comfortable talking about what the defendant did to her. After that CM was cautious around the defendant.

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<sup>3</sup> *Criminal Procedure Code* [Cap 7], s.190(2)(b)(1)

<sup>4</sup> Ms CM, her full name is suppressed to be published. The full name can be obtained or cross checked from the charge sheet.

**Count 2: Indecent Assault on Victim 1, CM, on an unknown date between 1<sup>st</sup> of January 2012 and December 31<sup>st</sup> 2012, at the Short Workshop In Mission (SWIM) Compound at Lungga area, Honiara.**

24. In 2011, CM was in grade 5 and she was around 13 to 14 years old, she moved from Lungga to stay with her aunt Ms Koro at Henderson also in East Honiara. She did not visit SWIM except to collect her school fees from the defendant and his wife Machie.
25. Sometimes in 2012 when CM was in grade 6 and 14 to 15 years old, she continued living with her Aunt Koro and was required to go to SWIM with her school exam papers to have them marked by Machie Rietveld (the defendant's wife, whom I shall refer to as Machie) or the defendant. They needed to see whether she was doing well at School to continue her sponsorship. On one occasion Machie was at their house but told CM she had to leave for an appointment so the defendant would review her exam paper. Machie left their residence and the defendant approached CM to mark her exam. CM did not want to speak to him because of what he did to her at the seaside. To avoid him, she asked if she could have a sleep downstairs but the defendant said she should sleep upstairs. CM went to the bedroom upstairs and laid down on the bed facing down and looked at a reading book. The defendant came into the bedroom and told her he wanted to kiss her to sleep. She ignored him and continued looking at the book. The defendant stood next to her at the side of the bed. He then sat down beside her on the bed and bent over so that his face was next to her face. CM thought he was going to kiss her cheek but the defendant used his right hand to pull CM's face up by the chin towards him and he kissed her on the mouth. CM kept her mouth closed but the defendant sucked her lips and was trying to force his tongue into her mouth while CM resisted him. The defendant asked CM for one last kiss but CM answered in the negative. He then stood up and walked away to the kitchen.
26. Later that same evening, the defendant came down outside and told CM he would drive her home to Henderson. CM asked other children to follow to ensure that her safety was guaranteed. She hated going to SWIM after that and avoided it.
27. CM later disclosed the incidents with respect to the defendant to her cousin sister, Ms Shasta Tingi'ia.

**Count 3: Indecent Assault on victim 2, Ms LB<sup>5</sup>, on an unknown date between 1<sup>st</sup> of January 2012 and December 31<sup>st</sup> 2012, at the Short Workshop in Mission (SWIM) compound at Lungga area, Honiara.**

28. LB was born on 5<sup>th</sup> December 1996. She grew up living in the area nearby to SWIM compound at Lungga in Honiara. She knew the defendant as a pastor at SWIM who was married to Machi. The defendant gave food and drinks to LB and other young girls and took them for swim with other children at the sea in the Omex/Lungga area, East Honiara.
29. In or around July 2010 when LB was 13 years old, she was at the SWIM compound one afternoon for prayer. She went to the defendant's house when Machie was away in Australia. Other girls were there including Tania, JW, Rosie, Dorvin and LH. The girls were at the defendant's house watching a movie. Later that night, the defendant turned off the movie and told the girls to have their shower and it was

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<sup>5</sup> LB's name is suppressed from being published as she was a juvenile at the time of offending. Her real name can be verified and cross-checked with the charge sheets.

LB's turn to shower. She removed all her clothes outside the bathroom and then went into the shower. The defendant told her that he was going to soap and wash her body. He soaped her up and started squeezing her breasts together despite LB was flat chested then because she was very young. After that, the defendant got out of the shower. LB got out, dried herself and got changed into her clothes. She left the bathroom and told the other girls about what happened. Then later she went to her aunt Roselyn's house where she told her aunt about what had happened. As a result, she stopped going to the defendant's house.

**Count 4: Indecent Assault on JW, on unknown date between 1<sup>st</sup> of January 2010 and December 31<sup>st</sup> 2010, at the Short Workshop in Mission (SWIM) compound at Lungga area, Honiara.**

30. JW was born in 1995.<sup>6</sup> She is the eldest child in her family and has 2 sisters. In 2009, JW's father worked for Tongs as a welder so the family lived opposite the SWIM compound in East Honiara. In 2009, JW was aged 13-14 years old and in grade 5 at Lungga Primary School. One Sunday afternoon in 2009, the defendant and his wife Machie went to JW's family house and asked her father who paid for his daughter's school fees. As a result of that conversation, the defendant and Machie, through SWIM, offered to pay the girl's school fee which was accepted by JW's father. Since then, the defendant and Machie would visit JW's family house and discuss school fees, and bring school materials. Because of that relationship, JW started calling the defendant and Machie names that are equivalent to father and mother or grandparents. Every Sunday afternoon the defendant would pick her up and take her to swim in the sea near Omex timber mill area in East Honiara with the other children.
31. Sometimes in 2010 when JW was in grade 6 at Lungga Primary School and aged 14 to 15 years old, she had a big sore on her leg and felt sick. She went to SWIM and saw Machie who took her to the Chemist at Panatina in Honara where she had an injection to help her leg get better. After that Machie returned her to the SWIM compound. JW rested upstairs at the defendant's house. The defendant was working in the office downstairs. JW woke up in the living room and the defendant was holding her head. He asked her if she wanted to watch a movie and put on a princess movie to watch. It was about 3:30pm-4pm. Machie went out to drive a lady worker home. After Machie left, the defendant told JW to have a shower. She did not have any suspicious feelings about the offer because she treated the defendant like a grandfather. She went into the bathroom, the door did not have a lock and the shower had a curtain which was transparent and made of plastic. She removed all her clothes and commenced showering facing the wall so that her back was facing the shower curtain. As she showered she thought that she was the only person in the bathroom but she felt like she was being watched. She turned and saw the defendant standing behind her, that is, behind the transparent shower curtain and watching her. The defendant stepped into the shower and JW asked him what he was doing. The defendant replied to her to be quiet. JW told him to go outside. JW faced the wall with her back to the defendant and the defendant stood behind her and placed his hands on her hips and moved them up to hold her breasts from behind her. JW pushed his hands away and grabbed her shoulders so that her arms covered her breasts. She shouted to the defendant they were her breasts and he should not touch her. The defendant told JW to relax her body because he was not doing anything to her body. She could feel the defendant's almost naked body leaned against her back as he was only wearing silk sorts. JW wanted to leave the shower. She turned and bent down and walked out past the defendant. She got a towel, dried herself and got changed into her clothes. She left the defendant's house and the SWIM compound and returned home.

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<sup>6</sup> JW's name is suppressed.

**Count 5: Indecent Assault on JW, on an unknown date between 1<sup>st</sup> January 2010 and December 31<sup>st</sup> 2010, at the seaside at Lungga area, Honiara.**

32. Sometimes in 2010 when JW was aged 14-15 years of age, she went to the seaside at the Omex area with the defendant and other children. Usually every Sunday after prayer, the defendant would take the children there for a swim. On this occasion, the defendant took JW, her two sisters Rose and Naomi, Amanda, and CM for a swim. They were swimming in the sea and were playing a game of catch. JW swam into a deeper part of the sea to avoid being caught. As she waited in the deep part, the defendant swam from behind her and put his hands from behind her and felt her breasts. After feeling her breasts he placed his hands on her hips from behind and lifted her in the air and threw her further out in the deep area. She felt bad and returned to the shore. She sat down inside the back of the truck and waited for everyone else to finish swimming. After all the children finished swimming and returned to the defendant's truck, CW and Amanda sat with her in the back of the truck and asked her why she was so quiet. JW then told them what the defendant did to her in the sea.

**Count 8: Indecent Assault on LH, on an unknown date between 1<sup>st</sup> and 31<sup>st</sup> of July 2010, in the sea at Lungga area, Honiara.**

33. LH was born on 17<sup>th</sup> August 1993.<sup>7</sup> One unknown day in July 2010, the defendant told the younger boys at SWIM, aged 8-9 years, to follow everyone to the Omex area for a swim in the sea. LH was with Amanda Perpetua and they travelled in the defendant's blue dump truck. At the sea, the little boys swam with LH and Amanda Perpetua. Amanda left to go and collect some sugar cane from the nearby garden. The defendant approached LH in the sea and told her to move towards him and swim in a deeper place in the sea. LH said she was alright with swimming where she was. The defendant insisted but LH refused. The defendant grabbed her by the hand and pulled her to the deeper sea where he touched her breasts and squeezed them using both of his hands. This was on top of the t-shirt she was wearing. It was getting late and the sun was setting so the defendant transported her and Amanda back to SWIM. LH did not tell anybody. On return to SWIM the defendant told LH to have a shower but because of what the defendant had done previously, she refused. Amanda and LH had their bath downstairs. LH, Amanda, and LB made efforts to stay together to ensure their safety was guaranteed.

**Count 9: Indecent Assault on LH, on an unknown date between 1<sup>st</sup> and 31<sup>st</sup> of July 2010, at the Short Workshop In Mission (SWIM) at Lungga area, Honiara.**

34. The next day after allegation 8, still in July 2010, at night time the defendant was putting cream in LH's and LB's hair which the defendant told them was for head lice. Both LB and LH went into the bathroom to wash their hair and the defendant told LH that he would wash her hair. LH said that she would wash her own hair and LB's hair. LH did not expect the defendant to come inside the bathroom because both she and the other girl were there so she got into the shower and closed the curtain. LH removed all her clothes and was naked. LB was in the bathroom but outside the shower waiting for her turn. LH then heard the defendant entering the bathroom and he said it was time for LH to finish her shower. LB said

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<sup>7</sup> LH's full name is suppressed from publishing.

that LH had only just started her shower. The defendant came to the shower and removed the curtain. LH called for LB to get in the shower with her but the defendant told LB with a raised voice to stop because there was not a room for one more person in the shower.

35. The defendant got into the shower and using his right hand he washed on top of LH's vagina. LH was about to shout when the defendant held his hand over her mouth and told her with a low volume angry tone and said these words: "you're stupid don't tell anyone what I'm doing to you." LH got out of the shower as soon as she could and went downstairs, leaving the defendant in the bathroom with LB. LB came downstairs not long after.
36. Three days later Machie returned but LH did not tell Machie what happened. A few days later LH returned to Malaita but she did not tell her parents what happened because she was frightened and concerned they may not believe her.

### **DISCUSSION AND ANALYSIS**

37. Section 141(1) of the *Penal Code* [Cap 26]<sup>8</sup> provides:

#### *Indecent assaults*

*141. (1) Any person who unlawfully and indecently assaults any woman or girl is guilty of a felony, and shall be liable to on females imprisonment for five years.*

38. The maximum sentence for indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26] is 5 years imprisonment.

### **FACTORS TO BE CONSIDERED**

#### **Aggravating Factors**

39. In the case of *Mulele v Director of Public Prosecutions; Poini v Director of Public Prosecutions* [1986] SBCA 6; [1985-1986] SILR 145 (14 January 1986)<sup>9</sup>, the Court of Appeal stated that each case must depend on its own facts. It further held that the factors that should always be considered, amongst others, are as follows:

- 1) Disparity of age
- 2) Abuse of Position of trust
- 3) Subsequent Pregnancy
- 4) Character of the girl herself

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<sup>8</sup> *Penal Code* [Cap 26], s 141(1)

<sup>9</sup> *Mulele v Director of Public Prosecutions; Poini v Director of Public Prosecutions* [1986] SBCA 6; [1985-1986] SILR 145 (14 January 1986)

### **The age disparity between the defendant and the complainants**

40. The accused was 63 years at the time of offending and the complainants were between 12 and 15 years old. The age difference between them are of 51 and 48 years respectively which is a very wide margin and is an aggravating factor.
41. In *Regina v Luimalefo* [2008] SBHC 74; HCSI-CRC 224 of 2007 (12 December 2008<sup>10</sup>), his Lordship Palmer CJ said that the age difference between the victim who was 13 years old and the defendant who was 35 years old was significant. His Lordship also stated that the accused as an older and mature person should have known better.

### **Abuse of Position of Trust**

42. The defendant was in a position of trust and responsibility towards the four (4) complainants. He was a referend and spiritual figure to the SWIM community and environs. He was expected to bring salvation, healing and hope to the people.
43. He was the Director of SWIM, a high position and a renowned figure which people respected. He brought the position and the parent body that sent him to the Solomon Islands into disrepute.
44. The victims looked up to him as their grandfather and his wife as their grandmother.
45. He was trusted by the victims' families who allowed their daughters to visit him and him to visit their homes. The families involved in this case knew him and expected him to look after their young girls.
46. In *Regina v Foa* [2010] SBHC 92; HCSI-CRC 256 of 2008 (26 February 2010)<sup>11</sup>, in this case, a breach of trust between young children and adults is recognised as an aggravating factor.

### **The young age of the complainants**

47. It was enunciated in the case of *R v Ligiau and Dori* [1986] SBHC 15; [1985-1986] SILR 214 (3 September 1986)<sup>12</sup> in which his Lordship Ward CJ stated that "...the extremely young age of the victims, one 12 years 2 months and the other 10 years and 4 months, is a very serious aggravating feature." In the present case, the victims are below the age of 15 years and therefore their young ages must be considered as an aggravating factor.

### **Premeditation**

48. The manner and the attitude in which the various offences were carried out shows that there were some degree of premeditation and planning on the part of the defendant. I agree with the DPP's submission

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<sup>10</sup> *Regina v Luimalefo* [2008] SBHC 74; HCSI-CRC 224 of 2007 (12 December 2008)

<sup>11</sup> *In Regina v Foa* [2010] SBHC 92; HCSI-CRC 256 of 2008 (26 February 2010)

<sup>12</sup> *R v Ligiau and Dori* [1986] SBHC 15; [1985-1986] SILR 214 (3 September 1986)

that the offences cannot be said to have been done on the spur of the moment. The manner in which the offences were committed shows that the defendant planned each of the seven (7) offences.

49. It also transpired that the offences were committed when his wife Machie was not present at home. He waited for his wife to go out before he committed the offences.
50. It can be deduced from the facts that the accused had a modus operandi as paedophiles do. He would show them movies till the early evening and would then tell them to go and have their shower. He would go inside the bathroom that did not have locks and he would insist on soaping the girls or wash someone's hair despite their objections.

#### **Mitigating Factors**

51. On the other hand, the mitigating factors are enumerated below.

#### **Early Guilty Plea.**

52. The defendant entered an early guilty plea although not at the first available opportunity. I note that the defendant pleaded not guilty initially to all the charges and the matter was set for trial in 2020 but it appears that he later changed his mind. This, however, still saves the court's time and resources of going through a trial which was scheduled for 2020. This also shows that he is remorseful and takes full of responsibility of what he did.

#### **No Previous Conviction.**

53. The defendant is a first time offender which means he has no past criminal conviction.

#### **Cooperated well with the Police.**

54. The defendant came to Solomon Islands in June earlier this year voluntarily and at his own volition with one objective, that is to resolve and face the consequences of what he did wrong. On the 23<sup>rd</sup> June 2019, he arrived in Solomon Islands and presented himself voluntarily to the Police at the Rove Police Headquarters in Honiara. This is quite a courageous and humble act by the defendant and he should be given allowance for this factor.

#### **Pastoral Care, Social and Humanitarian Assistance.**

55. The defendant was a highly regarded pastor and a leader of the community for 12 years in Solomon Islands. Mr Rietveld and his wife greatly involved in pastoral care for their church, and humanitarian aid, assisting both financially, sometimes from their personal income. The good deeds that the defendant had done is reflected by various representations and letters by various people and organizations both locally and abroad that were attached in the addendum to the submissions for the defendant.<sup>13</sup> There is no doubt that Mr Rietveld had rendered important services and assistance for

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<sup>13</sup> The following documents were attached to the addendum to the submissions for Mr Kevin Rietveld:

- 1) Good Work Record: Past and Present Service to Solomon Islands
- 2) Letter from the Christian Reformed Church of Toowoomba dated 12 August 2019
- 3) Letter from the Christian Reformed Churches of Australia: Classis Queensland dated 9<sup>th</sup> May 2015.
- 4) Letter from Mrs Rietveld dated 9<sup>th</sup> October 2019
- 5) Support letters:

many local people during his time here in Solomon Islands and also in Australia, and this must be taken into account as a mitigating factor.

#### **Personal Circumstances, old age, health**

56. The defendant is 72 years old and is a sickly person which must be taken into account as well. A medical report authenticating his medical predicament dated 22<sup>nd</sup> October 2019 is also sighted by the Court.

#### **Pre-Sentence**

57. The pre-sentence period and time spent in custody shall be taken into account as well.

#### **Sentencing Principles.**

58. The classic sentencing principles such as punishment, deterrence and rehabilitation must be taken into account in the course of formulating and ascertaining the appropriate sentence. Any sentence given must commensurate with the severity and gravity of each offence or charge.
59. In this present case, the court must deliver a sentence which send a warning to the public, both specific and general deterrence, that indecent and sexual related offences are not acceptable in a modern democratic Solomon Islands. Sexual offenders will be dealt with severely in accordance with the laws of this country in the event that they are caught.
60. It is generally accepted that when imposing a sentence, each case must be decided based on its own set of facts, merits and circumstances.
61. The sentence should impart a message to the people who come to this country with religion and other social services and use those services to prey on and exploit young children of poor and unsuspecting families, and that such unlawful actions must be stopped.

#### **Comparative Sentencing and Sentencing Tariff**

62. In the case of *Regina v Foa* [2010] SBHC 92; HCSI-CRC 256 of 2008 (26 February 2010)<sup>14</sup>, the accused was sentenced to 3 years imprisonment. The breach of trust between the victim and the defendant was taken into consideration.
63. In *Regina v Tawaia* [2011] SBHC 84; HCSI-CRC 437 of 2009 (30 August 2011)<sup>15</sup>, the accused was charged with four counts of indecent assault and he was sentenced to 2 years on each count. The accused was also sentenced for 5 years for one count rape and the sentences were served concurrently. There

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- i. Christian Reformed Church dated 12 August 2019
  - ii. Joint letters from Prime Timers dated October 2019
  - iii. Letter from Solomon Star Newspaper dated 10<sup>th</sup> October 2019
  - iv. Letter from Pastor Andrew Fanasia dated 10<sup>th</sup> October 2019
  - v. Letter from William Wiersma dated 21<sup>st</sup> October 2019.

6) Medical Report Registrar of Rove Clinic, Honiara City Council, dated 22<sup>nd</sup> October 2019 and prescriptions of medicine.

7) Letter from inmates in CSSI Rove Correctional Facility, Block 6

<sup>14</sup> *Regina v Foa* [2010] SBHC 92; HCSI-CRC 256 of 2008 (26 February 2010)

<sup>15</sup> *Regina-v-Tawaia* [2011] 84; HCSI-CRC 437 of 2009 (30<sup>th</sup> August 2011)

were four different victims. One of the aggravating factor is the age difference. The accused was 39 at the time of the offence while the victims were between the ages 13 to 17.

64. In *Regina v Tebitanga* [2013] SBHC 23; HCSI-CRC75 of 2009 (7 March 2013)<sup>16</sup>, the accused was an old man and the victim was only 15 years old at the time of offence. He raped, attempted to rape and indecently assaulted the victim. He was sentenced to 4 years for rape, 3 years for attempted rape and 2 years for indecently assaulting the victim.
65. In the case of *Regina-v-Pana Sentence* [2013] SBHC 88; HCSI-CRC 402 of 2008 (16<sup>th</sup> July 2013)<sup>17</sup>, the defendant was charged with one count of indecent assault contrary to section 141(1) of the *Penal Code* (count 1) and one count of defilement contrary to section 142(1) of the *Penal Code* [Cap 26]. Concerning the indecent assault (count 1) contrary section 141 of the *Penal Code*, the defendant was sentenced to 2 years imprisonment for indecent assault and 14 years for defilement.
66. In the case of *Regina v Rukaræ* [2016] SBMC 14; Criminal Case 511 of 2015 (9 June 2016)<sup>18</sup>, the defendant is the grandfather of the 10 year old complainant. The accused was charged with two counts of indecent Assault contrary to section 141(1) and 141(3) of the *Penal Code* [Cap 26]. The Court sentenced the defendant to 3 years imprisonment and 1 year imprisonment respectively which were to be served concurrently. The grandfather and the victim lived in the same house. In the first incident, the offender showed his penis to the victim, and this was while he was standing close to the victim. In the second incident, the accused silently walked over to her, held her buttock and turned her to face up from her original sleeping position. The accused then pushed his hand into the victim's trousers.
67. In summation, as gleaned from the sentences referred to above, the Courts have imposed custodial sentences ranging from 2 to 3 years for indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26].

#### Sentencing for a Number of Offences or Counts

68. There are seven charges of the same nature against four different female victims and they occurred variously over a period of two years from 2010-2012.
69. Professor Eric Colvin explains that in such situations where the case involved more than one offence, the principle of proportionality could be an issue. He said that the:

*Proportionality may be a difficult issue when a person is to be sentenced for more than one offence. Imposing a number of separate, cumulative sentences could create a crushing burden, disproportionate to the criminality involved. The principle of totality has been developed to avoid this outcome. The totality principle holds that a court sentencing an offender for more than one offence should not simply impose a number of separate, cumulative sentences. It should instead consider what would be an appropriate aggregate sentence.*<sup>19</sup>

<sup>16</sup> *Regina v Tebitanga* [2013] SBHC 23; HCSI-CRC75 of 2009 (7 March 2013)

<sup>17</sup> *Regina-v-Pana Sentence* [2013] SBHC 88; HCSI-CRC 402 of 2008 (16<sup>th</sup> July 2013)

<sup>18</sup> *Regina v Rukaræ* [2016] SBMC 14; Criminal Case 511 of 2015 (9 June 2016)

<sup>19</sup> Eric Colvin et al "Criminal Law in Queensland and Western Australia: Cases and Commentary"-Sentencing Principles (6<sup>th</sup> Edition, 2012) 948.

70. In *Bade v Reginam* [1988] SBHC 10; [1988-1989] SILR 121 (21 December 1988), His Lordship Ward CJ stated that:

*When considering sentence for a number of offences, the general rule must be that separate and consecutive sentences should be passed for the separate offences. It is trite to point out that a man who commits, say, five offences should receive a heavier sentence than a man who only commits one of them.*

*However there are two situations where this rule must be modified. The first, that where a number of offences arise out of the same single transaction and cause harm to the same person there may be grounds for concurrent sentences, does not concern this appeal save to say that the learned magistrate correctly applied this principle in ordering a concurrent term for the malicious damage caused to Solo Lae's house during the burglary.*

*The second occasion for modifying the general rule arises where the aggregate of sentences would, if they are consecutive, amount to a total that is inappropriate in the particular case. Thus, once the court has decided what is the appropriate sentence for each offence, it should stand back and look at the total. If that is substantially over the normal level of sentence appropriate to the most serious offence for which the accused is being sentenced, the total should be reduced to a level that is "just and appropriate" to use the test suggested in *Smith v. R.* [1972] Crim.L.R. 124. Equally, if the total sentence, although not offending that test, would still in the particular circumstances of the person being sentenced, be a crushing penalty, the court should also consider a reduction of the total.*

71. In *Regina v Hoka* [2012] SBHC 152; HCSI-CRC 159 of 2011 (10 December 2012)<sup>20</sup>, Pallaras J, stated that the sentences for charges of an attempted rape occurred on different days separated by time over two years should be ordered to be served consecutively. However, his Lordship said that:

22. *This approach would result in a head sentence of 22 years (3.5 +4+4.5+5+5). I am conscious that this would be a crushing sentence if fully imposed and that in accordance with the totality principle, I ought to reduce it to avoid such an outcome.*

23. *The method by which this result can be achieved has been the subject of consideration in the High Court of Australia in the case of *Mill v R* in which the Court said:*

*"Where the principle falls to be applied in relation to sentences of imprisonment imposed by a single sentencing court, an appropriate result may be achieved either by making sentences wholly or partially concurrent or by lowering the individual sentences below what would otherwise be appropriate in order to reflect the fact that a number of sentences are being imposed. Where practicable, the former is to be preferred."*[2]

72. In *Johnson-v-Regina* [2004] HCA 15; (2004) ALR 346<sup>21</sup> at [26], Gummow, Callinan and Heydon JJ of the High Court of Australia said as follows:

*The joint judgment in *Mill* expresses of a preference for what should be regarded as the orthodox, but not necessarily immutable, practice of fixing a sentence for each offence and aggregating them*

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<sup>20</sup> *Regina v Hoka* [2012] SBHC 152; HCSI-CRC 159 of 2011 (10 December 2012)

<sup>21</sup> *Johnson-v-Regina* [2004] HCA 15; (2004) ALR 346

*before taking the next step of determining concurrence. Pearce does not decree that a sentencing judge may never lower each sentence and then aggregate them for determining the time to be served. To do that, is not to do what the joint judgment in Pearce holds to be undesirable, that is, to have regard only to the total effective sentence to be imposed on an offender. The preferable course will usually be the one which both cases commend but neither absolutely commands.*

73. It was explained that the "...Queensland Court of Appeal has indicated that various options are acceptable: low cumulative sentences; higher concurrent sentences; and one sentence reflecting the overall criminality with lower sentences for the other offences."<sup>22</sup>
74. Therefore, based on the relevant sentencing principles and methods applicable, I must make sure that I issue a total sentence that reflects the culpability and the overall criminality of the offences that the defendant committed between 2010 and 2012. In other words, I need to ensure that the final sentence given is the 'appropriate aggregate sentence' which is not too lenient or excessively harsh.

### Starting Point

75. After having considered the circumstances of the case, the mitigating and the aggravating factors and the case authorities provided, I am of the view that the starting point of twenty four (24) months imprisonment is appropriate for each of the counts. As I go through the process of ascertaining the appropriate sentence for each count, I am required to make sure that the aggravating and the mitigating factors are taken into account, including other relevant factors, and do a proper balancing exercise.

### VICTIM 1, CM:

#### Counts 1:

Count 1: Indecent Assault on Victim 1<sup>23</sup>, CM on an unknown date between 1<sup>st</sup> of January 2010 and December 2010 and December 31<sup>st</sup> 2010, at the seaside at Lungga area, Honiara.

76. In the first count, the defendant moved his hands in and under her shirt and touched her breasts. After having considered the aggravating and the mitigating factors, and the circumstances of this case, I am satisfied that an imprisonment of six (6) months is appropriate for the first count.<sup>24</sup>

#### Counts 2:

Count 2: Indecent Assault on Victim 1, CM, on an unknown date between 1<sup>st</sup> of January 2012 and December 31<sup>st</sup> 2012, at the Short Workshop In Mission (SWIM) Compound at Lungga area, Honiara.

77. In relation to count 2, the defendant entered the bedroom that CM was sleeping in while she was reading a book. He asked her that he wanted to kiss her to sleep. The defendant then proceeded to kiss her on

<sup>22</sup> Eric Colvin et al "Criminal Law in Queensland and Western Australia: Cases and Commentary"-Sentencing Principles (6<sup>th</sup> Edition, 2012)-948.

<sup>23</sup> Ms CM, her full name is suppressed to be published. The full name can be obtained or cross checked from the charge sheet.

<sup>24</sup> *Early Guilty Plea.* The defendant entered an early guilty which saves the court's time and resources for conducting a trial. The allowance of 8 months shall be deducted. *No Previous Conviction.* The defendant is a first time offender and 2 months shall be deducted from the head sentence. *He cooperated well with the Police.* The defendant cooperated well with the Police which made the investigation and laying of charges occurred quite promptly. He also came to the country voluntarily from Australia. I deduct 4 months for his cooperation with the Police. *Pastoral Care, Social and Humanitarian Assistance, and coupled with other mitigating factors such as personal circumstances such as old age, health and so forth.* The defendant prior to committing the said offences was a good man. He rendered pastoral, and social and humanitarian assistance to the unfortunate people in Solomon Islands. I deduct 4 months for this: Hence, the total sentence for count 1 is 6 months.

the mouth. He sucked her lips despite her objection and resistance. The victim Ms CM did not like the fact that an old man took her first kiss. After having considered the aggravating and the mitigating factors, and the circumstances of this case, I am satisfied that an imprisonment of ten (10) months is appropriate for the second count.<sup>25</sup>

78. The allegations in counts 1 and 2 occurred in 2010 and 2012 respectively and cannot be regarded to have arose in one transaction, therefore, they should run consecutively. Hence, they are to be served consecutively with the sentences for the other counts.

#### VICTIM 2, LB:

##### Count 3

Count 3: Indecent Assault on victim 2, Ms LB, on an unknown date between 1<sup>st</sup> of January 2012 and December 31<sup>st</sup> 2012, at the Short Workshop in Mission (SWIM) compound at Lungga area, Honiara.

79. With respect to count 3, the defendant went into the bathroom while the victim was having her shower fully naked. He soaped her up and squeezed her breasts together despite the fact that LB was flat chested. After having considered the aggravating and the mitigating factors, and the circumstances of this case, I am satisfied that an imprisonment of eight (8) months is appropriate for the present count.<sup>26</sup> The sentence for count 3 should run consecutively to count 1 and 2.

#### VICTIM 3, JW:

##### Count 4

Count 4: Indecent Assault on Victim 3, JW, on unknown date between 1<sup>st</sup> of January 2010 and December 31<sup>st</sup> 2010, at the Short Workshop in Mission (SWIM) compound at Lungga area, Honiara.

80. In relation to count 4, the offending occurred in 2010 whilst JW was sick and under medication. Machie left, and the defendant told the victim to have shower. JW did as instructed and before having her shower she removed all her clothes. The defendant entered the bathroom and placed her hands on her hips and moved them and touched her breasts. She resisted. He was wearing silky sorts at the time.

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<sup>25</sup> *Early Guilty Plea.* The defendant entered an early guilty which saves the court's time and resources for conducting a trial. The allowance of 8 months shall be deducted. *No Previous Conviction.* The defendant is a first time offender and 2 months shall be deducted from the head sentence. *He cooperated well with the Police.* The defendant cooperated well with the Police which made the investigation and laying of charges occurred quite promptly. He also came to the country voluntarily from Australia. I deduct 4 months for his cooperation with the Police. *Pastoral Care, Social and Humanitarian Assistance, and coupled with other mitigating factors such as personal circumstances such as old age, health and so forth.* The defendant prior to committing the said offences was a good man. He rendered pastoral, and social and humanitarian assistance to the unfortunate people in Solomon Islands. I deduct 4 months for this. I think there should be an increase of another 4 months to reflect the kissing on the mouth and it was also the victim's first kiss. Hence, the total sentence is 10 months.

<sup>26</sup> *Early Guilty Plea.* The defendant entered an early guilty which saves the court's time and resources for conducting a trial. The allowance of 8 months shall be deducted. *No Previous Conviction.* The defendant is a first time offender and 2 months shall be deducted from the head sentence. *He cooperated well with the Police.* The defendant cooperated well with the Police which made the investigation and laying of charges occurred quite promptly. He also came to the country voluntarily from Australia. I deduct 4 months for his cooperation with the Police. *Pastoral Care, Social and Humanitarian Assistance, and coupled with other mitigating factors such as personal circumstances such as old age, health and so forth.* The defendant prior to committing the said offences was a good man. He rendered pastoral, and social and humanitarian assistance to the unfortunate people in Solomon Islands. I deduct 4 months for this. On the other hand, I am of the opinion that an increase of 2 months is appropriate to reflect the severity of the offence. Hence, the total sentence is 8 months for the third (3<sup>rd</sup>) count.

After having considered the aggravating and the mitigating factors, and the circumstances of this case, I am satisfied that an imprisonment of eight (8) months is appropriate for the fourth count.<sup>27</sup>

**Count 5:**

Count 5: Indecent Assault on JW, on an unknown date between 1<sup>st</sup> January 2010 and December 31<sup>st</sup> 2010, at the seaside at Lungga area, Honiara.

81. In relation to count 5, after having considered the aggravating and the mitigating factors, and the circumstances of this case, I am satisfied that an imprisonment of six (6) months is appropriate for the fifth count.<sup>28</sup>
82. I am of the considered view that the sentences for counts 4 and 5, although they were committed against the same victim Ms JW, and in the absence of any evidence that they arose from the same transaction, they should run consecutively as they occurred on different occasions. The resulting sentence is 14 months and it shall run consecutive with the other counts.

**VICTIM 4:**

**Count 8**

Count 8: Indecent Assault on Victim 4, LH, on an unknown date between 1<sup>st</sup> and 31<sup>st</sup> of July 2010, in the sea at Lungga area, Honiara.

83. This is the sentence pertaining to count 8. This involves the touching of the breasts from outside the clothing while the victim and the defendant were swimming in the sea at Lungga in East Honiara. After having considered the aggravating and the mitigating factors, and the circumstances of this case, I am satisfied that an imprisonment of six (6) months is appropriate for count 8.<sup>29</sup>

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<sup>27</sup> *Early Guilty Plea.* The defendant entered an early guilty which saves the court's time and resources for conducting a trial. The allowance of 8 months shall be deducted. *No Previous Conviction.* The defendant is a first time offender and 2 months shall be deducted from the head sentence. *He cooperated well with the Police.* The defendant cooperated well with the Police which made the investigation and laying of charges occurred quite promptly. He also came to the country voluntarily from Australia. I deduct 4 months for his cooperation with the Police. *Pastoral Care, Social and Humanitarian Assistance, and coupled with other mitigating factors such as personal circumstances such as old age, health and so forth.* The defendant prior to committing the said offences was a good man. He rendered pastoral, and social and humanitarian assistance to the unfortunate people in Solomon Islands. I deduct 4 months for this. On the other hand, I think an uplift of 2 months is appropriate to reflect the severity of the offence. Hence, the total sentence is 8 months for the 4<sup>th</sup> count.

<sup>28</sup> *Early Guilty Plea.* The defendant entered an early guilty which saves the court's time and resources for conducting a trial. The allowance of 8 months shall be deducted. *No Previous Conviction.* The defendant is a first time offender and 2 months shall be deducted from the head sentence. *He cooperated well with the Police.* The defendant cooperated well with the Police which made the investigation and laying of charges occurred quite promptly. He also came to the country voluntarily from Australia. I deduct 4 months for his cooperation with the Police. *Pastoral Care, Social and Humanitarian Assistance, and coupled with other mitigating factors such as personal circumstances such as old age, health and so forth.* The defendant prior to committing the said offences was a good man. He rendered pastoral, and social and humanitarian assistance to the unfortunate people in Solomon Islands. I deduct 4 months for this. Hence, the total sentence for count 5 is 6 months.

<sup>29</sup> *Early Guilty Plea.* The defendant entered an early guilty which saves the court's time and resources for conducting a trial. The allowance of 8 months shall be deducted. *No Previous Conviction.* The defendant is a first time offender and 2 months shall be deducted from the head sentence. *He cooperated well with the Police.* The defendant cooperated well with the Police which made the investigation and laying of charges occurred quite promptly. He also came to the country voluntarily from Australia. I deduct 4 months for his cooperation with the Police. *Pastoral Care, Social and Humanitarian Assistance, and coupled with other mitigating factors such as personal circumstances such as old age, health and so forth.* The defendant prior to committing the said offences was a good man. He rendered pastoral, and social and humanitarian assistance to the unfortunate people in Solomon Islands. I deduct 4 months for this. Hence, the total sentence for count 8 is 6 months.

## Count 9

Count 9: Indecent Assault on LH<sup>30</sup>, on an unknown date between 1<sup>st</sup> and 31<sup>st</sup> of July 2010, at the Short Workshop In Mission (SWIM) at Lungga area, Honiara.

84. In relation to count 9, after having considered the aggravating and the mitigating factors, and the circumstances of this case, and given the fact that count 9 involves the touching of the vagina which is more invasive, I am satisfied that an imprisonment of twelve (12) months is appropriate for the count 9.<sup>31</sup> In other words, this count is a bit more serious compared to the other counts, thus, attracts a sentence of at least 12 months or 1 year.
85. Counts 8 and 9 occurred consecutively on two consecutive days in July 2010, therefore, these two offences shall be deemed to have arose from the same transaction. Hence, counts 8 and 9 shall be served concurrently and the resulting sentence for count 8 and 9 is 12 months but it shall run consecutive to the sentences for the other counts.
86. In view if the above, the computation of the sentences for counts 1, 2, 3, 4, 5, 8, and 9 are as follows:

[1] Counts 1=6 months + [2] Count 2=10 months + [3] Count 3 = 8 months + [4] Counts 4=8 months and [5] Count 5=6 months+ [8] (Counts 8=6 months and [9] 9=12 months-concurrent) = 12 months. The total head sentence would be 50 months or 4 years and 2 months.

87. Therefore, the total sentence is 50 months which is equivalent to 4 years and 2 months. Moreover, after taking into account the totality principle and balancing all the relevant principles of sentencing such as punishment, deterrence and rehabilitation, and defendant's personal circumstances, I deduct another 14 months.<sup>32</sup> This is to ensure that the sentence reflects the overall criminality or the appropriate aggregate sentence of the offences committed by the defendant and to avoid the crushing effect of it on the defendant. Therefore, the total sentence would be thirty six (36) months or 3 years.

## FURTHER DISCUSSION AND CONCLUSION

88. Sexual related offences are unfortunately becoming prevalent and increasing in the Solomon Islands and must be condemned in the strongest terms by the Courts. On that same note, I wish to unequivocally

<sup>30</sup> The fourth victim's full name is suppressed to be published.

<sup>31</sup> *Early Guilty Plea*. The defendant entered an early guilty which saves the court's time and resources for conducting a trial. The allowance of 8 months shall be deducted. *No Previous Conviction*. The defendant is a first time offender and 2 months shall be deducted from the head sentence. *He cooperated well with the Police*. The defendant cooperated well with the Police which made the investigation and laying of charges occurred quite promptly. He also came to the country voluntarily from Australia. I deduct 4 months for his cooperation with the Police. *Pastoral Care, Social and Humanitarian Assistance, and coupled with other mitigating factors such as personal circumstances such as old age, health and so forth*. The defendant prior to committing the said offences was a good man. He rendered pastoral, and social and humanitarian assistance to the unfortunate people in Solomon Islands. I deduct 4 months for this. On the other hand, I think an uplift of 6 months is appropriate to reflect the severity of the offence especially the touching of the vagina. Hence, the total sentence for count 6 is 12 months for count.

<sup>32</sup> *Regina v Hoka* [2012] SBHC 152; HCST-CRC 159 of 2011 (10 December 2012)

point out that there is no place for sexual predators and paedophiles in Solomon Islands and it is my role to issue a sentence with stern warning that resonate well both locally and abroad.

89. I also take cognizance of the relevant international human rights treaties that Solomon Islands has ratified and acceded to in the past which protects children from all sorts of violence and sexual abuse. One of the most relevant treaties is the *Convention on the Rights of the Child (CRC)*.<sup>33</sup> Article 1 of the CRC defines a 'child' as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger. Article 3 of the CRC requires that the paramount consideration in making any decisions for a child is his or her 'best interests'. Article 4 requires the member countries to take all the necessary measures to make sure the children's rights are respected, protected and fulfilled. Article 19 provides as follows:

*Article 19 1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*<sup>34</sup>

90. In the present case, all the four victims were under the age of 18 when the offences were committed between 2010 and 2012. This is an aggravation as well as all the victims were below or around the age of 15 at the time of the offending. Both the relevant international laws and the national laws are complementing each other and one of their overarching objectives, *inter alia*, is the protection of our children from physical, sexual and emotional abuse. The law protects all people from all walks of life and more especially our young girls from sexual violence by older men and also from themselves. The law places the burden of responsibility on the accused to curb their sexual desires and more essentially to protect young children.
91. In the present case, one of the aggravating features is the fact that the defendant at the time of offending held the position as Director of SWIM and a pastor and reverend in the Mission. Whilst the intention of the Mission was genuine in assisting the needy and those who cannot afford basic health and educational services apart from its pastoral duties. It transpired that Mr Rietveld took advantage of that situation or abused that position. The actions of the defendant are shameful and a clear breach of trust on his part. He was a pastor and a highly educated person, and a parent himself and should have known better, and also he should have controlled his selfish desires.
92. It is pertinent for me to remind the people of Solomon Islands and also foreigners who come to the shores of this country that the criminal law protects the right of young children. Females and young children are vulnerable and older citizens are obliged to care for them. The government of the day ought to take note of this despicable threat of sexual violence, and it must work together with the public and private sectors, non-governmental organizations, church and religious groupings, and the people of this country as a whole to combat and contain sexual violence against our children and more especially females.

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<sup>33</sup> *Convention on the Rights of the Child (CRC)*. Solomon Islands ratified this Treaty in 1995.

<sup>34</sup> *Convention on the Rights of the Child (CRC)*, Article 19.

93. This is indeed a sad case for Solomon Islands which speaks volume of the dire need to protect the vulnerable people in our communities, schools, villages, work places, government institutions and agencies, universities, and also in our churches and religious organizations from sexual related offences.
94. I should conclude by saying that Solomon Islands is not a safe haven for sexual predators, paedophiles or sex offenders generally and such people will face the music should they be caught in this jurisdiction. People who are responsible for such crimes must be punished for their actions. Hence, it is my considered view that the total sentence reached in the present case is the appropriate aggregate sentence. It reflects the court's denunciation of the despicable actions of the defendant and more generally sexual related offences. In essence, it also reflects the overall criminality of the offences committed over a span of two years against four female victims.

### ORDERS

95. The orders of the court are as follows:

1] **The offender, Mr Kevin Rietveld is sentenced as follows:**

- 1) **Count 1: Indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26]- the defendant is sentenced to an imprisonment term of 6 months.**
  - 2) **Count 2: Indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26]- the defendant is sentenced to an imprisonment term of 10 months.**
  - 3) **Count 3: Indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26]- the defendant is sentenced to an imprisonment term of 8 months.**
  - 4) **Count 4: Indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26]- the defendant is sentenced to an imprisonment term of 8 months.**
  - 5) **Count 5: Indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26]- the defendant is sentenced to an imprisonment term of 6 months.**
  - 6) **Count 8: Indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26]- the defendant is sentenced to an imprisonment term of 6 months.**
  - 7) **Count 9: Indecent assault contrary to section 141(1) of the *Penal Code* [Cap 26]- the defendant is sentenced to an imprisonment term of 12 months.**
- 2] **Counts 8 and 9 shall run concurrently since they occurred within a period of 24 hours and shall be deemed to have arose out of the same transaction, and the resulting sentence is 12 months.**
- 3] **Counts 1, 2, 3, 4, 5 shall be served consecutively with the resulting sentence of counts 8 and 9. Hence the total sentence is 50 months.**
- 4] **However, taking into account the totality principle and the crushing effect the sentence may have on the defendant, and the issue of delay and his other personal circumstances, I order that a further 14 months is deducted and the total sentence is 36 months or 3 years.**
- 5] **The pre-sentence period and time spent in custody must be taken into account and ought to be deducted accordingly.**

- 6] The names of the victims shall continue to be suppressed as they were juveniles when the offences were committed between 2010 and 2012 unless otherwise ordered by this court.
- 7] Right of Appeal within 14 days.

  
**PRINCIPAL MAGISTRATE FELIX HOLLISON**  
**THE COURT**

