

REX

-V-

'ATONIO PATUA TAVAKE

BEFORE THE HON. JUSTICE SHUSTER

HAVING HEARD - Crown Counsel, and from Mr Tu'utafavia and from the defendant in person.

The defendant appears for sentencing - having pleaded guilty on first arraignment on 22nd July 2011; to an indictment, alleging five counts of [1] Indecent assault on three young girls, aged 8.9 and 10 years – [repeatedly] in a continuing course of conduct which took place over a period of two years from 2008-2010.

On 22nd July 2011 the case was adjourned for a Pre-Sentence report and the defendant was remanded in custody for the preparation of that report.

It should be noted that the defendant is a first time offender and to his credit he had fully admitted his part in the pattern of offending - to the police and on his first appearance before this court.

THE BRIEF FACTS

The prosecution claims the facts revealed that in 2008 the defendant was involved in an incident when he fondled the breasts and the vagina of an 8 year old child who was the daughter of his employer whilst he worked at the fathers plantation. The next year the defendant did the same - with another girl aged 9 and the year after he again did the same act with the

same girl when she was only 10. In November and December 2010 the defendant committed the same type of acts towards another young girl also aged 10.

After a complaint was made the matter was reported to the police and the defendant was arrested. The defendant admitted the facts to the police and to this court and he has told the court that he had apologized to his victims but the apology - has not been accepted by the victims or their families

On 28th September 2011 the defendant appeared for sentencing. Having considered all the facts of the case, including the contents of the PSR – and the contents of the psychiatric report from Dr Puloku – in which the doctor states quite strongly - he feels the defendant is trying to mitigate any sentence and avoid punishment and his responsibilities and the fact the defendant does not require any treatment at this time.

I have considered the fact that the defendant pleaded guilty and, the fact the defendant co-operated with the police and with this court – and that he has tried to apologize to his victims.

Having heard from the defendant in person and noting that he is a first time offender. I told the defendant my starting point for this type of serious offending involving a sexual attack on not one but three victims of tender years in a continuing course of conduct by a man of 31 years of age, is a sentence of five years imprisonment – based on a NOT guilty plea.

The defendant is sentenced as follows:-

Count 1 – The defendant is sentenced to **FOUR YEARS** in prison – however the last **EIGHTEEN** months is suspended conditional upon the defendant keeping the peace and being of good behaviour and committing no further offending during the period of the suspension of the sentence of imprisonment

Count 2 – The defendant is sentenced to **FOUR YEARS** in prison – however the last **EIGHTEEN** months is suspended conditional upon the defendant keeping the peace and being of good behaviour and committing

no further offending during the period of the suspension of the sentence of imprisonment

Count 3 – The defendant is sentenced to **FOUR YEARS** in prison – however the last **EIGHTEEN** months is suspended conditional upon the defendant keeping the peace and being of good behaviour and committing no further offending during the period of the suspension of the sentence of imprisonment

Count 4 – The defendant is sentenced to **FOUR YEARS** in prison – however the last **EIGHTEEN** months is suspended conditional upon the defendant keeping the peace and being of good behaviour and committing no further offending during the period of the suspension of the sentence of imprisonment

Count 5 – The defendant is **PLACED ON PROBATION FOR THREE YEARS** with a condition that upon his release from prison the defendant is to enroll in the Salvation Army Course - providing Psychosocial Intervention for substance abuse. All sentences are to be served concurrently with each other.

This is to be a deterrent sentence, applying the principles enunciated in **Crown -v- Cunningham**

NB - the sentence of two years six months starts from the date of his first remand the 26th August 2011

A Copy of these sentencing remarks are to be served on the Prison Commissioner

DATED 28th SEPTEMBER 2011

JUDGE