

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

**Criminal Case No. HAC 07 of 2017**

**STATE**

**v**

**TERRANCE ROKOBATI**

**Counsel:** Mr. L. Fotofili for the State  
Ms. S. Nasendra (L.A.C.) for the Accused

**Date of Plea** : 19 April 2017

**Date of Sentence** : 28 April 2017

**SENTENCE**

1. On the 14<sup>th</sup> April the Accused entered an unequivocal plea to a count of rape of a 7 year old girl in Naweni (in this Northern Division) on the 5<sup>th</sup> February 2017.
2. He agreed an appropriate set of facts upon which he was convicted.

## **Facts**

3. The facts reveal that in the evening of the date in question, the accused had been drinking with others and he returned to a tent where he usually slept. The victim, aged 7 at the time was sleeping alone in the tent when he returned. The child's mother usually slept in the tent but on this occasion she was at a house nearby drinking kava. There was just the accused and the young girl alone in the tent.
4. The accused moved close to the girl and removed her panty. He used his finger to invade her whilst at the same time he was pleasuring himself. He continued to use his finger on the girl until feeling sudden pain in her vagina, she awoke, crying. Just at that moment, the mother came back and saw the activity. The child told the mother what the accused had done to her.
5. The accused confessed to a church elder that evening, and when interviewed by the Police he freely admitted his transgression.

## **The Accused**

6. The accused was born on the 12<sup>th</sup> December 1998, meaning that at the time of the offence he was only two months from being a Juvenile.
7. At the time, he was living with his mother in a village where he did some subsistence farming. He also worked as a labourer on a school construction site where he earned a small amount of money.

8. He had at the end of 2016 dropped out of school because of the financial pressures on his family.
9. He has a clear record, making him a first offender.

### **The Law**

10. The maximum penalty for rape is life imprisonment and the tariff for rapes of children is a term of imprisonment for a period of between 10 and 16 years. (**Anand Abhay Raj** CAV003 of 2014).
11. Meaningful discounts must be afforded to the accused for his youth, his clear record and his co-operation with the authorities. His plea of guilty before this Court will also be recognized; a plea that has saved the Court's time and more importantly has saved the very young child having to relive this trauma and give evidence of a sexual nature.

### **This Sentence**

12. The Court is very conscious of the extreme youth of this accused. Only two months earlier he passed from being a juvenile to becoming an adult in law; however at 18 he is still a child and children do impetuous things without realizing the consequences of their actions.
13. As this Court said very recently in **Fabiano** HAC14 Of 2016,

*“The courts have always been at pains to treat young offenders with mercy and to keep them from the baneful and corrupting influences of an adult prison community. Such good intentions*

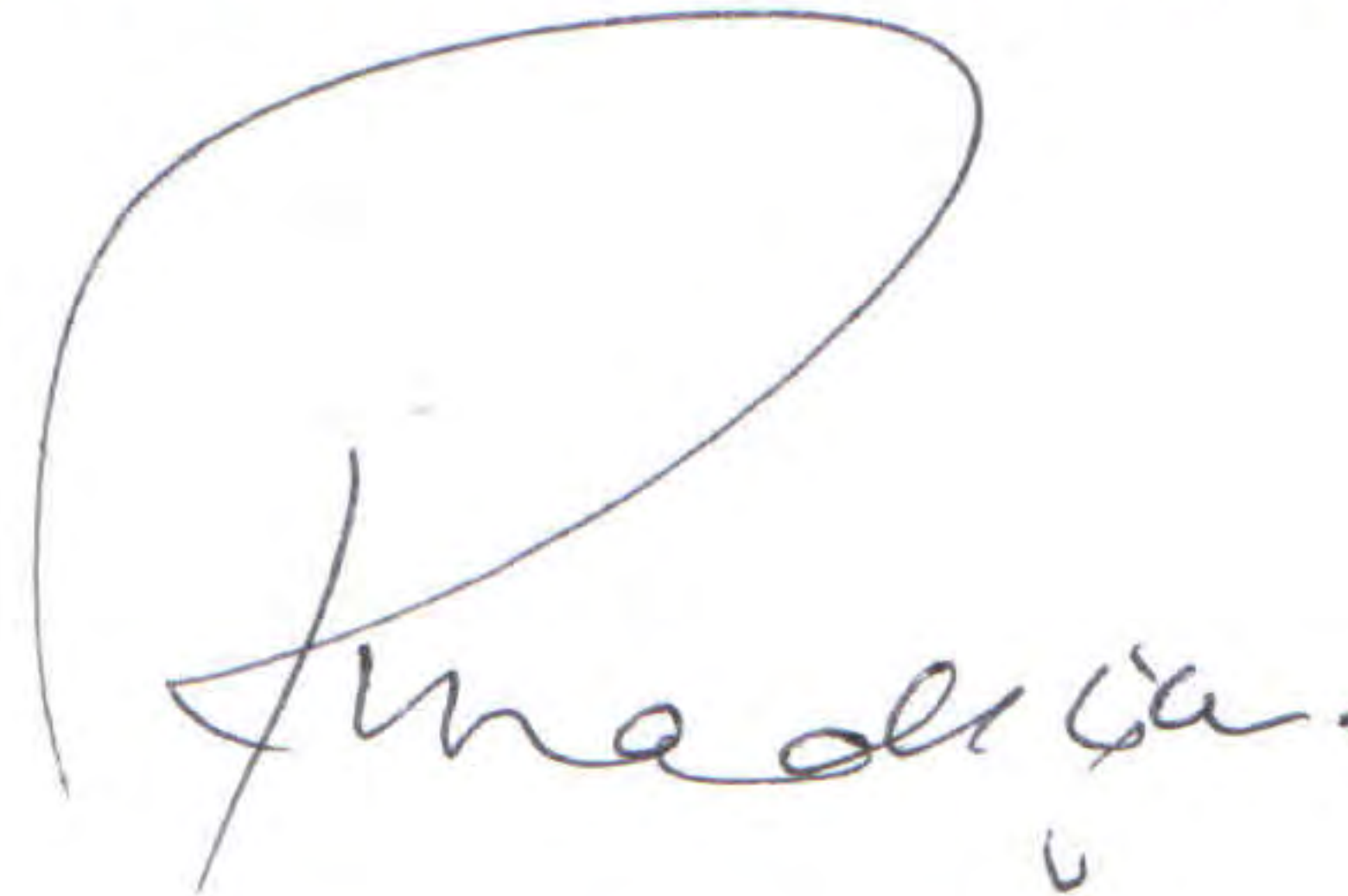
*however must be balanced with the seriousness of the offence he (or she) is convicted of.”*

14. The rape of a child is a serious crime indeed, especially a child of 7 years old. At that age she knows what is happening and the literature tells us that the trauma of such an event can have very serious repercussions indeed on her mental and sexual development.
15. It is my judicial duty to take a starting point in the range set down by the Supreme Court, that is within the range of 10 to 16 years. I take a starting point of 10 years imprisonment.
16. There is aggravation of the offence in that there has been a breach of trust. The mother, allowing the accused to sleep in the tent with her and her daughter, trusts that the accused will molest neither her nor the child and the accused has breached that trust. I add 2 years to the sentence to reflect that breach.
17. Despite the heinous abuse, the accused has a good deal of mitigation to his credit. He is very remorseful and he has co-operated with the authorities from the outset. He has a hitherto clear record and he has spent over 2 months in remand awaiting these proceedings. For this considerable mitigation I deduct 2 years from his sentence bringing it back to ten years.
18. His very early guilty plea has saved the child and her mother from reliving this ordeal and has saved Court time. For that plea I deduct a further two years from the sentence making a total sentence of 8 years. That is the sentence that this Court passes on the accused.

19. It is inevitable and regrettable that because of the seriousness of his abuse that he will have to spend years of his progress to full maturity in the company of hardened convicts; but he must be given the opportunity of redemption and a chance to be once again a useful member of his rural community.
20. It is for that reason that this sentence is one that is outside the tariff, and it must in no way be used to distort the tariff already laid down by the Supreme Court in **Anand Abhay Raj** (*supra*).
21. It is also for that reason that I decline to set a minimum term that he serve before being eligible for parole.

**Conclusion**

22. The accused is sentenced to 8 years imprisonment with no minimum term to be served before being eligible to apply for parole.



**P. K. Madigan**  
**Judge**



At Labasa  
28 April 2017