

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 085 of 2021

STATE

vs.

MACIU KOROIDUA

Counsel: Ms. U. Tamanikaiyaroi with Ms. P. Kumar for the State
Ms. N. Raikaci for Accused

Date of Hearing: 12th and 13th October 2022

Date of Closing Submission: 24th October 2022

Date of Judgment: 17th November 2022

Date of Sentence: 23rd November 2022

SENTENCE

1. Mr. Maciu Koroidua, the Court found you guilty of one count of Rape, contrary to Section 207 (1) (2) (a) of the Crimes Act, one count of Rape, contrary to Section 207 (1) and (2) (b) of the Crimes Act, and three counts of Sexual Assault, contrary to Section 210 (1) (a) of the Crimes Act and convicted of the same.
2. It was proved during the hearing that you had penetrated the vagina of the first Complainant, your niece and was 18 years old in 2019, with your penis without her consent between the 1st day of October 2019 and the 31st day of October 2019. You then sexually assaulted the second Complainant, who is also one of your nieces and was 13 years old in 2020, by touching her breasts while she was sleeping in the bed in the kitchen. One Saturday between

the 1st day of September 2020 and the 30th day of September 2020, you penetrated the vagina of the third Complainant, who is the partner of your nephew and was seventeen years old in 2020, with your fingers without her consent. During the same transaction, you sexually assaulted her by touching her breasts. Once again, on another night during the same period, you touched her breasts while she was sleeping on the floor of the sitting room. The first and second Complainants came to your house to attend school, while the third Complainant came with her partner after eloping from her father.

3. This is a case of sexual exploitation of three young girls by a known person. Sexual exploitation of young girls has become a social menace. The social enigma of abusing children for sexual gratification needs to address promptly and effectively. Therefore, I find the objective seriousness of these crimes is significantly high.
4. The primary purpose of this sentence is founded on the principle of deterrence. It is the responsibility of the Court to deter offenders or other persons from committing offences of the same or similar nature and protect the community from offenders of this nature. A harsh and long custodial sentence is inevitable for offences of this nature to demonstrate the gravity of the offence and reflect that civilized society denounces such crimes without any reservation.
5. These five offences are founded on the same series of offences with similar characters. Therefore, it is appropriate to impose an aggregate sentence pursuant to Section 17 of the Sentencing and Penalties Act.
6. The maximum penalty for the offence of Rape is life imprisonment. The tariff for the Rape of a child is between 11 to 20 years imprisonment. (**Aitchison v State ([2018] FJSC 29; CAV0012.2018 (2nd of November 2018)**). The tariff for the Rape of an adult person is 7 to 15 years imprisonment. The maximum sentence for Sexual Assault is ten years imprisonment, while the applicable tariff range is 2 to 8 years imprisonment.

7. The Victim Impact Reports of the three Complainants stated that these crimes have adversely affected their respective lives emotionally and psychologically. According to the Victim Impact Report of the first Complainant, this crime has shattered her self-confidence and reduced her to a withdrawn person. Due to this crime, the second Complainant finds it difficult to build and trust human relationships and difficulties focusing on her education. The third Complainant states that this incident adversely affected her in trusting people and building relationships with them. Considering these reasons, I have no hesitation in finding the level of harm in the offences is exceedingly high.
8. You have manipulatively created an environment providing them with their education and good advice, thus making them believe you are an influential fatherly figure. You then used your position in their lives to sexually abuse them in order to satisfy your reprehensible sexual desires. Therefore, I find the level of culpability in these crimes is exceptionally high.
9. Taking into consideration the seriousness of these offences, the applicable tariff, the level of harm and the level of culpability, I select 18 years as the starting point.
10. The three Complainants considered you a respected father figure. By committing this crime, you breached the trust and respect they had in you. In addition, you violated the confidence reposed in you by the parents of the first and second Complainants. The age difference between you and the three Complainants is significant. You have manipulatively exposed the first and second Complainants to adulthood, and sexual activities, preventing them from growing naturally with their age. I find these facts as aggravating circumstances of this crime.
11. In her mitigation submissions, the learned Counsel for the Defence explained your family background, which has no mitigatory value.
12. The learned Counsel for the Defence submitted that you are a first offender; hence, you are entitled to a substantive discount. I find that your previous good character, especially that you have not been tainted with any prior convictions for an offence of sexual nature, would

have allowed you to freely and secretly carry out this heinous crime without any suspicion of risk. The community had perceived you as a man of good character. Therefore, I do not find that your previous good character has much mitigatory value, and you are only entitled to a meagre discount.

13. Given the reasons discussed above, I increased two (2) years for the aggravating factors to reach twenty (20) years. Because of your previous good character, I reduced one (01) year. Accordingly, I reach nineteen (19) years of imprisonment as your final sentence.
14. Having considered the seriousness of this crime, the purpose of this sentence, and opportunities for rehabilitation, I find seventeen (17) years of the non-parole period would serve the purpose of this sentence. Hence, you are not eligible for parole for seventeen (17) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Head Sentence


15. Accordingly, Mr. Maciu Koroidua, I sentence you to a period of nineteen (19) years imprisonment as an aggregate sentence for two counts of Rape and three counts of Sexual Assault as charged in the Information. Moreover, you are not entitled to parole for seventeen (17) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Actual Period of the Sentence

16. You have been in remand custody for this case for nearly five (5) months before the sentence, as the Court did not grant you bail. According to Section 24 of the Sentencing and Penalties Act, I consider five (5) months as a period of imprisonment you have already served.
17. Accordingly, the actual sentencing period that you have to serve is **eighteen (18) years and seven (07) months** imprisonment with a non-parole period of **sixteen (16) years and seven (07) months**.

18. Since this incident involves domestic violence, I am satisfied that there are sufficient grounds to consider making an order under the Domestic Violence Act. I accordingly make Permanent Domestic Violence Restraining Order against you with standard non-molestation conditions pursuant to sections 24 and 28 of the Domestic Violence Act. The above Domestic Violence Restraining Order will be in force until this Court, or any other competent Court, is varied or suspended. Furthermore, if you breach this restraining order, you will be charged and prosecuted for an offence pursuant to section 77 of the Domestic Violence Act.
19. Thirty (30) days to appeal to the Fiji Court of Appeal.




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Hon. Mr. Justice R.D.R.T. Rajasinghe

At Suva

23rd November 2022

Solicitors

Office of the Director of Public Prosecutions for the State.

Ravono & Raikaci Law for the Accused.