

**In the Central Magistrate's Court  
Of Solomon Islands**



Criminal Case No:

582 of 2023

**REGINA**

**V**

**LUKE FARIFI TOKE**

Ms. Mutukera (DPP) for the Crown  
Mr. Gaza (PSO) for the prisoner

**SENTENCE**

**PM Taeburi,**

1. The prisoner has been convicted on one count of indecent act on a child under 13 years of age contrary to section 139(2)(a) of the Penal Code (Amendment) (Sexual Offences) Act 2016.
2. He was found guilty for touching the complainant's vagina in September of 2023. The complainant is a 10 years old girl. Both the prisoner and the complainant are from Isabel Province.
3. The facts proved in this case are that the prisoner is related to the complainant's mother. The complainant calls him granny. The facts show that he was engaged by the complainant's mother to build a kitchen. During the time of the construction of the kitchen, he came over and spent a night with the complainant's family. The complainant's father was not at home at the time.
4. It was found that on that particular night, the complainant's mother left the house. The facts show that the accused and three of the children, including the complainant were at home. The facts also show that the other two children were sleeping. The complainant was still awake.

5. The facts proved show that it was during this time that the prisoner called the complainant to a dark place outside of the house. He instructed her to take off her clothes and further instructed her to sit on top of some dead leaves. He then used his hands and rubbed her vagina. As he was indecently touching her, the complainant's mother returned. He heard the mother from some distance away and told the complainant to get dressed. He told her not to tell anyone about what he had done to her.
6. It was found during the trial, that as soon as the mother got home, the complainant told her what had happened. These are the crucial facts proved during the trial.
7. In sentencing the prisoner, I take into account the imbalance in the power dynamics between the prisoner and the complainant. There is a substantial age difference between them. The complainant was and still is a child. At the time of the offending, she was 10 years old. When she came to court to testify in this case, she was 11 years of age. I have observed her in court and can confirm from personal appearance, that she is a child. The prisoner is now 63 years old. At the time of offending, he was about 62 years of age. There is more than 50 years of age disparity between them. Obviously there is an imbalance in the level of control and authority between them because of the huge age difference. The prisoner being of advanced age and maturity is someone who can exercise more authority and control over the complainant.
8. This imbalance in the power dynamics between them is even more worsen given the close family relationship. The complainant calls the prisoner granny. The complainant's mother calls him uncle. His status in the family gives him more power and control over the complainant.
9. What he has done to her shows that he took advantage of his position and authority to satisfy his evil and selfish sexual desires. Men who prey on young girls to satisfy their perverse desires are real threats and danger in our societies. These courts will not tolerate any form of sexual violence and abuse on our little girls. Men who commit these offences must expect to be punished by our laws.
10. I also consider the effects and impacts that the incident will have on the complainant. It is without a doubt that in every sexual abuse case, the complainant will suffer from psychological trauma. This case is no different. I consider the shame and stigma that the complainant has to endure as a result of what has been done to her. I take into account the fear and the psychological effects that she has to live with because of the wrongs that were committed to her.
11. In mitigating I take into account the fact that the prisoner is an elderly man of 63 years old. His old age means that I must not treat him like other men who are of a much younger age. In the case of *Togovi v Regina*, the High Court held that the learned Magistrate had not given sufficient weight to the principle of old age when sentencing the

appellant. The court held that when sentencing people of old age, the courts must consider the factor of age and must be mindful not impose a sentence that is likely to have a crushing effect on the prisoner. I take those factors into consideration when sentencing this prisoner.<sup>1</sup>

12. I also consider that the prisoner has no prior convictions. His elderly age shows that he has for most of his life been a law abiding citizen.
13. The maximum penalty prescribed by law is 7 years imprisonment.<sup>2</sup>
14. I am grateful for the case authorities submitted by counsels as comparative sentences. In the following cases of indecent act on a child, the defendants were sentenced as follows;
  - a. *R v Wabeasi* – 3 years and 1 month imprisonment;<sup>3</sup>
  - b. *R v Puisasa* – 10 months imprisonment;<sup>4</sup>
  - c. *R v Tata* – 2 years imprisonment;<sup>5</sup>
  - d. *R v Metoula* – 2 years imprisonment;<sup>6</sup>
  - e. *R v Leinga* – 2 years imprisonment;<sup>7</sup>
  - f. *R v Hardie* – 3 years imprisonment.<sup>8</sup>
15. From the case authorities, I think it is right to say that the sentencing range for these kind of offences lies somewhere from 3 years imprisonment to 10 months.
16. In the circumstances of this matter, it is my respectful view that the appropriate sentence is 16 months imprisonment.
17. I was informed that the prisoner was taken into custody in respect of this charge on the 13<sup>th</sup> of October 2023. In my calculation, the time spent in custody is approximately, 9 months and 11 days.
18. The time spent in custody is included in the sentence imposed.
19. Right to appeal within 14 days from today.

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<sup>1</sup> *Togovi v Regina* [2009] SBHC 63; HCSI-CRC 50 of 2009 (30 October 2009)

<sup>2</sup> Penal Code (Amendment) (Sexual Offences) Act 2016 – section 139(2)(a) – Maximum penalty: (a) if the child is under 13 years of age – 7 years imprisonment

<sup>3</sup> *R v Wabeasi* [2023] SBHC 98; HCSI-CRC 94 of 2023 (21 September 2023)

<sup>4</sup> *R v Puisasa* [2019] SBMC 21; Criminal Case 190 of 2018 (3 May 2019)

<sup>5</sup> *R v Tata* [2021] SBHC 52; HCSI-CRC 157 of 2019 (29 June 2021)

<sup>6</sup> *R v Metoula* [2022] SBHC 110; HCSI-CRC 464 of 2021

<sup>7</sup> *R v Leinga* [2022] SBHC 111; HCSI-CRC 467 of 2021

<sup>8</sup> *R v Hardie* [2022] SBHC 70; HCSI-CRC 501 of 2020

Dated this 24<sup>th</sup> Day of July 2024



The image shows a handwritten signature in blue ink, which appears to read "Fatimah Me'ere Taeburi". The signature is written over a circular official stamp. The stamp contains the text "CENTRAL MAGISTRATE" at the top and "TANZANIA" at the bottom. The signature is positioned horizontally across the center of the stamp.

Principal Magistrate – Ms. Fatimah Me'ere Taeburi