

**IN THE DISTRICT COURT
AT GISBORNE**

**CRI-2014-082-000389
[2016] NZDC 9458**

NEW ZEALAND POLICE
Prosecutor

v

HEREMIA HAKOPA
Defendant

Hearing: 26 May 2016
Appearances: Sergeant C Neustroski for the Prosecutor
A P Dreifuss for the Defendant
Judgment: 26 May 2016

NOTES OF JUDGE A J ADEANE ON SENTENCING

[1] Mr Hakopa has been convicted by a jury on one count of unlawful sexual connection with a child. The circumstances are that he, at 24 years of age, was in the position of trust and influence over a girl aged between five and six years. This offending took place back in the period 1996 to 1997.

[2] On one occasion when the child was in the bedroom, the defendant lifted her up and placed his mouth on her vagina, thereby committing an act of sexual violation by unlawful sexual connection.

[3] Obviously the aggravating features are the position of trust and the age of the young victim. The child of course was completely vulnerable to this sort of behaviour and the defendant simply took advantage of that.

[4] The case is made the more troubling because Mr Hakopa does not accept the verdict of the jury and continues to maintain simply that he is innocent of this offending. The jury verdict however is conclusive insofar as this Court is concerned.

[5] The guideline case is *R v A M* [2010] NZCA 114; 2 NZLR 750 which sets out a series of categories of offending. In my view this matter is capable of being categorised in band 1 of sexual violation, but only just because of the age and vulnerability of the child.

[6] The defendant's personal circumstances are set out in the probation report. Otherwise they are unexceptional; he is a contributing member of the community, but this conviction demonstrates a significant flaw in his character.

[7] There is a submission that he should receive a youth discount for the fact that he was 24 years of age at the time of the offending. Given the age difference between he and the victim, in my view, and the nature of the offending itself, a discount for youth in those circumstances would be quite inappropriate and I decline to make one.

[8] I adopt a starting point of three years' imprisonment. There is only one matter for which a discount might be entertained and that is the absence of previous convictions. That however, has to be seen in the context of an ongoing refusal to accept the jury's verdict in this matter, or to acknowledge guilt. That of course is never an aggravating feature, but it may be a feature that bears on the appropriateness of discounts.

[9] In the circumstances, in my view, a discount of 10 percent is quite adequate to recognise the previous absence of convictions and accordingly, Mr Hakopa is sentenced for this to 32 months' imprisonment.

A J Adeane
District Court Judge