



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

*Press Release
Dili District Court
14 August 2014*

Court sentences former commander of criminal investigations to 9 years in prison

On 08 August 2014 the Dili District Court conducted a hearing to announce its decision and sentenced the defendant CG to 9 years in prison after the court found him guilty of the crime of failure to report a crime and kidnapping of 5 foreign citizens who were allegedly involved in drug crimes in 2012.

“JSMP welcomes the court’s continued impartiality and capacity to rule on cases involving high ranking people from State institutions. This is a lesson for everyone with an important role in this country to avoid such behavior in the future,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

The public prosecutor alleged that on 20 October 2012 the defendant, who was the PNTL Investigations Commander, arrested 4 Indonesian citizens and 1 African at the Hotel Central. Those individuals were suspected of bringing 6.5 kilograms of drugs into Timor-Leste, however only 3.5 kilograms reached the Office of the Public Prosecutor. After arresting the five suspects, the defendant did not immediately report the matter to the Public Prosecution Service for investigation, but rather the defendant allowed the suspects to freely enter and exit the hotel.

Then, on 23 October 2012 the defendant took the 5 suspects to Nicolau Lobato airport so they could return to Indonesia.

In relation to these acts, the public prosecutor charged the defendant with violating Article 297 of the Penal Code for abuse of power as well as Article 286 of the Penal Code for failure to report a crime.

During the hearing to examine evidence, the court amended the charge from Article 297 for abuse of power to Article 160 for kidnapping. Based on the facts established during the trial, the court found that the actions of the defendant fulfilled the elements of the crimes of kidnapping and failure to report a crime.

After evaluating the facts and testimony of the defendant, the court found the defendant guilty of being involved in 6 different crimes. Regarding the charge relating to the failure to report a crime, the defendant was sentenced to 4 years in prison, and regarding separate charges for kidnapping the 5 individuals, the court convicted each crime with 3 years in prison. The court then accumulated the 6 crimes, sentenced the defendant to 9 years in prison and ordered him to pay court costs of US\$ 40.

This prison sentence of 9 years was based on the aggravating circumstances such as

the fact that the defendant was the Commander of Police Criminal Investigations and should have known that drug crimes are serious crimes. Nevertheless, the court also considered one of the mitigating circumstances, namely that the defendant was ordered by the PNTL General Commander to release the 5 suspects.

During the hearing to examine evidence the defendant testified that he was given an order by the PNTL General Commander to return the 5 suspects to Indonesia. Therefore, through his lawyer he requested to the court to present the PNTL General Commander to provide testimony before the court. However, the court ignored this request.

JSMP agrees that any person found guilty of committing a crime must receive a penalty proportional to the seriousness of the case, however JSMP encourages the courts to allow defendants to defend themselves properly and present relevant witnesses as provided for in Article 60 (h) of the Criminal Procedure Code that states that the defendant may provide evidence and request any action deemed necessary for his or her defence.

JSMP believes that it is important to ensure that each trial reflects the principle of a “fair trial” as a universal principle that is valid in all democratic countries based on the rule of law.

After the court read out its decision, the prosecutor requested the court to immediately apply pre-trial detention pursuant to Article 194 of the Criminal Procedure Code to ensure that the defendant does not abscond from Timor-Leste.

In relation to this request, the public defender raised an objection because he felt that the defendant had demonstrated a good level of cooperation with the court to date. The public defender guaranteed that his client would not flee from his responsibilities and would wait until the appeal of the decision of first instance.

The court applied restrictive measures regarding proof of identity and residence as set out in Article 186 of the Criminal Procedure Code and confiscated the passport of the defendant to prevent him from absconding from Timor Leste.

This case was registered as Case No. 364/2014.TDDIL. Judge Julio Gantes read out the court’s decision on behalf of the panel of judges. The public prosecution service was represented by Gloria Alves, and Angelina Saldanha. The defendant was represented by Sergio Paulo Dias Quintas and Marçal Mascarenhas from the Office of the Public Defender.

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