



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release

Oecusse District Court

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The court revokes suspended prison sentence and imposes an effective prison sentence of 2 years and 6 months against a defendant who reoffended in a case of domestic violence

On 14 December 2017 the Oecusse District Court applied Article 73 of the Penal Code on revocation of a suspension, and decided to revoke a suspended prison sentence that had previously been applied against the defendant MB and imposed an effective prison sentence of 2 years 6 months against the defendant. This penalty combined the penalty determined by the court on 23 May 2017 with an additional penalty of 1 year 6 months in prison in the new case.

The court revoked this suspension because the defendant was found guilty of committing the crime of simple offence against physical integrity characterized as domestic violence against his wife during the period of suspension. The incident occurred on 11 December 2017 in Oecusse District.

“This decision is a step forward for the courts and it is crucial for the courts to comply with their obligations pursuant to Article 73 of the Penal Code on revocation of a suspension, so that there is no tolerance of defendants who demonstrate no remorse for the crimes they have already been convicted of by the court and for those who fail to comply with a court's previous decision,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

Previously, on 23 May 2017 the court imposed a prison sentence of 1 year, suspended for 1 year 6 months against the defendant, after finding him guilty of committing the crime of simple offences against physical integrity against his wife. This means that before the half way point of the suspended prison sentence, the defendant committed another crime.

The court applied an effective prison sentence because it believed that the defendant did not show remorse for his previous behavior against his wife for which he was convicted by the court.

Also, the defendant had a previous conviction from 30 July 2014, where the court convicted the defendant to 1 year in prison, suspended for 2 years, after finding him guilty of committing the crime of simple offences against the physical integrity of his wife.

Article 73.2 of the Penal Code on revocation of a suspension states that suspension shall always be revoked if, during its period of duration, the convict commits a crime of intent for which the same is punishable with an effective prison sentence.

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This decision is very important because it sends a message to the public that any person who fails to comply with a decision of the court must be held accountable. This decision can also be used as a precedent for other courts so that they don't hesitate to convict defendants when the law requires so to protect the common good and to ensure justice for victims and to deter similar crimes in the future.

The public prosecutor alleged that on 11 December 2017 at approximately 3pm the defendant was drunk and used the flat part of a machete to strike the victim on the back and also struck the victim on her left wrist. These acts caused the victim to suffer pain, swelling to her back and an injury to her wrist. The case included a medical report from Pradet and photographs from the VPU-PNTL.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity as well as Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on different types of domestic violence and Article 36 on domestic violence as a public crime.

During the trial, the defendant confessed all of the facts and stated that they have not yet reconciled. But the defendant stated that he regretted his actions and promised not to reoffend in the future. The defendant also stated that previously he was convicted for the crime of simple offences against physical integrity against his wife (the victim).

In addition, the victim maintained and confirmed the facts set out in the indictment and acknowledged that they have not yet reconciled. Nevertheless, the victim also told the court that she alone could not support their four children.

In his final recommendations the public prosecutor requested for the court to revoke the suspended prison sentence that had previously been imposed by the court on the defendant and to apply an effective prison sentence of 2 years. The public prosecutor considered that the defendant did not regret his behavior did not comply with the court's decision in the previous case, and then reoffended against his wife.

The defence requested for the court to maintain a suspended prison sentence with the condition that every month the defendant needs to report to PNTL. However, if the court determines otherwise, then the defence requested for the court to uphold justice for the defendant.

The defence requested a suspended prison sentence because the defendant confessed all of the facts, collaborated with the court, again stated that he regretted his actions and the defendant also is responsible for supporting his family together with the victim, and the defence considered these circumstances to be mitigating circumstances.

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime of simple offences against the physical integrity of the victim. The court also proved that the defendant committed this crime during the period of suspension. Therefore,

the court concluded the matter and revoked the suspended prison sentence previously applied by the court and imposed an effective prison sentence of 2 years 6 months against the defendant.

This case was registered with the court as Case No. 0223/17.OESIC. The trial was presided over by single judge João Ribeiro. The public prosecution service was represented by Mateus Nesi and the defendant was represented by public defender Marcelino Marques Coro.

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