



Case Summary
The Dili District Court
July 2018

Affirmation: The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution.

JSMP strongly condemns all forms of violence, especially against women and vulnerable persons. JSMP maintains that there is no justification for violence against women.

A. Summary of the trial process at the Dili District Court

1. Total cases monitored by JSMP: 53

Articles	Case Type	Number of cases
Article 145 of the Penal Code (PC) as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence and Article 36 on domestic violence as a public crime)	17
Article 154 of the PC as well as articles 2, 3, 35(a) and 36 of the Law Against Domestic Violence	Mistreatment of a spouse	8
Article 177 of the PC	Sexual abuse of a minor	2
Article 172 of the PC	Rape	1
Articles 177, 178, 141 of the PC	Sexual abuse of a minor, sexual acts with an adolescent and termination of pregnancy	1
Article 179 of the PC	Sexual abuse of a person incapable of resistance	1

Article 178 of the PC	Sexual acts with an adolescent	2
Articles 138, 23, 211 of the PC	Homicide, attempted homicide and prohibited weapons	1
Articles 23 and 138 of Law No. 5/2017	Attempted homicide and carrying a bladed weapon	1
Article 139 of the PC	Aggravated homicide	1
Articles 295 and 274 of the Penal Code	Embezzlement and intentional mismanagement	1
Articles 274 & 297 of the PC	Abuse of power and intentional mismanagement	1
Article 299 of the PC	Economic participation in business	1
Articles 163, 164, 303	Human trafficking, aggravation and forgery of documents or technical report	1
Articles 207 and Law No. 5/2017	Driving without a licence and carrying a bladed weapon	1
Article 296 of the PC	Misappropriation of public assets	1
Article 253 of the PC	Robbery	1
Law No. 5/2017	Carrying a bladed weapon	1
Articles 145 and 258 of the PC	Simple offences against physical integrity and property damage	1
Article 145 of the PC	Simple offences against physical integrity	8
Article 211 of the PC	Prohibited weapons	1
Total		53

2. Total decisions monitored by JSMP: 30

Type of Penalty	Number of cases
Prison sentence	2
Prison sentence, Suspension of execution of a prison sentence (Article 68 of the PC) and Suspension of execution of a prison sentence with conditions (Article 69)	1
Suspension of execution of a prison sentence with rules of conduct (Article 70 g) of	3

the PC	
Suspension of execution of a prison sentence (Article 68 of the PC)	11
Fine (Article 67 of the PC)	1
Suspension of execution of a prison sentence (Article 68 of the PC) and fine (Article 67 of the PC)	2
Validated withdrawal of complaint (Article 262 of the CPC)	5
Admonishment (Article 82 of the PC)	3
Acquitted	2
Total	30

3. Total cases adjourned based on JSMP monitoring: 4

Reason for adjournment	Number of cases
The defendant and victim were absent	4
Total	4

4. Total ongoing cases based on JSMP monitoring: 19

B. Descriptive summary of the decisions handed down in cases that were monitored by JSMP;

1. Crime of sexual acts with an adolescent

Case No. : 0089/17.PDDIL
Composition of the Court : Panel
Judges : Euzébio Xavier Victor, Jacinta Correia, Ana Paula Fonseca
Prosecutor : Benvinda do Rosario
Public Defender : Jose Soares
Type of Penalty : 3 years in prison, suspended for 5 years with rules of conduct

On 2 July 2017 the Dili District Court announced its decision in a case of sexual acts with an adolescent involving the defendant SdS who allegedly committed the offence against the victim CD aged 14 years and 3 months, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 15 June 2014, at approximately 2.30pm, the victim was returning from school and went into her bedroom to change her clothes. The defendant followed the victim into the room and with his left hand covered the victim's mouth and with his right hand pulled the victim onto the bed and laid her down. Then the defendant used his right hand to remove the victim's underpants, and with his left hand pulled her pants down to her knees and

had sexual intercourse with the victim until he ejaculated. When he heard somebody calling out that they wanted to buy something from the victim's kiosk the defendant got off the victim and told the victim to attend to the person who wanted to buy some goods. The defendant had regular sexual intercourse with the victim and finally the victim became pregnant and gave birth to a boy.

The prosecutor accused the defendant of violating Article 172 of the Penal Code on rape which carries a penalty of 5 to 15 years in prison and Article 173 (d) of the PC on aggravation because the victim was aged less than 17.

Presentation of evidence

During the trial the defendant acknowledged that he had sexual intercourse with the victim but did not use force because the defendant and the victim were in a romantic relationship and the defendant was going to attend school to become a priest, but the victim stopped the defendant. The defendant stated that the victim's father expelled him from the victim's home when he found out that the victim was pregnant. The defendant also stated that he accepted the victim as his wife, because the two of them have a child.

The victim maintained the facts set out in the indictment and stated that at that time she did not scream because she was afraid her younger sibling and neighbour would hear. The victim also stated that the defendant twice kissed her in the kiosk. In addition, the victim stated that now their child is aged 2 years and six months.

The witness DdC, who is the father of the victim, testified that he suspected that the victim was pregnant when he saw the victim wearing her uniform to attend orientation at her school. Therefore, the witness told the victim's mother to ask the victim about her condition. When the witness and the victim's mother asked about the victim's condition, the victim responded that she was six months pregnant to the defendant. The witness did not accept this and immediately made a complaint about the defendant to the police. The witness viewed the defendant as his own son because he was living in their house, and therefore he was suspicious that the defendant and the victim were in a romantic relationship because they always went everywhere together.

Final recommendations

The prosecutor stated that the sexual intercourse took place, however there was no force, because previously the defendant had kissed the victim twice. The prosecutor stated that there was no element of force in this case. However, because the victim was only 14 years old, the prosecutor requested for the court to impose a prison sentence of 2 years, suspended for 2 years.

The public defender requested for the court to acquit the defendant because the defendant's actions did not fulfil the elements of the crime set out in the indictment. The public defender

stated that the sexual intercourse occurred on many occasions and based on the consent of the defendant and the victim. Regarding the defendant fleeing from the home, this did not occur because the defendant was abandoning the victim, but because the father of the victim expelled the defendant and until now the defendant is waiting for the victim to be with him.

Decision

After evaluating the facts produced during the trial, the court did not prove that the defendant used force or threats when he had sexual intercourse with the victim. Based on the victim's baptism certificate the court found that the victim was 14 years and 3 months old when the incident occurred. Therefore the court modified the charge from Article 172 and 173 of the Penal Code to sexual acts with an adolescent pursuant to Article 178 of the Penal Code.

The court considered that the defendant took advantage of the victim's inexperience when he had sexual intercourse with the victim. Based on this amended charge and the aforementioned considerations, the court sentenced the defendant to three years in prison, suspended for five years, and ordered the defendant to appear periodically at the court once a month for one year.

2. Crime of simple offences against physical integrity

Case No.	: 0670/16.DICMR
Composition of the Court	: Single Judge
Judge	: Jumiatty Freitas
Prosecutor	: Remízia de Fátima da Silva
Public Defender	: Miguel Acaçio (trainee lawyer)
Type of Penalty	: Validating the withdrawal of complaint

On 3 June 2018 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Alexandre Amaral who allegedly committed the offence against the victim Ilda Ximenes in Dili District¹.

Presentation of evidence

Before progressing to the presentation of evidence, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the victim was willing to withdraw the complaint but with the condition that the defendant may not provoke the victim in the future. The defendant agreed with this condition and the defendant apologised to the victim and promised not to provoke the victim in the future.

Final recommendations

¹ The court did not read out the indictment of the public prosecutor.

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

3. Crime of mistreatment of a spouse

Case No. : 0102/17.DIDIL
Composition of the Court : Panel
Judges : Albertina Neves, Antonino Helder and Jumiatty Freitas
Prosecutor : Bartolomeu de Araujo
Public Defender : Estaque Pereira Guterres
Type of Penalty : 3 months in prison, suspended for 2 years with rules of conduct

On 03 July 2018 the Dili District Court announced its decision in a case of mistreatment of a spouse involving the defendant AGN who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 20 July 2017, at approximately 3.55pm, the defendant pulled the victim's hair and pushed her into a wall. The defendant punched the victim once in the mouth, kicked the victim twice on her right side and left side of her stomach. The defendant also punched the victim once in the head and threw the victim on the ground. While the defendant and victim were living together the defendant always hit the victim, but the victim did not make a complaint.

Before this assault occurred the victim received information that her grandparent had passed away, so the victim called out to the defendant who was drinking alcohol with his friends to get ready to go to the mountains. However, the defendant told the victim that he had no money to pay for petrol. Therefore the victim told the defendant to ask for money from the defendant's parents. The defendant asked for the money but the defendant's parents also said that they didn't have any money, so the defendant and the victim argued until the assault occurred.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on mistreatment of a spouse that carries a maximum penalty of 2-6 years in prison.

Presentation of evidence

During the trial the defendant fully confessed to the facts set out in the indictment and stated that he assaulted the victim because the victim had grabbed the defendant by his shirt. The

defendant acknowledged that previously in 2016 the defendant hit the victim but had forgotten about the circumstances. The defendant also stated that he regretted his actions, has reconciled with the victim, and promised that he would not reoffend against the victim in the future.

In addition, the victim reinforced the facts set out in the indictment of the public prosecutor and also confirmed the statement of the defendant that in 2016 the defendant assaulted the victim.

Final recommendations

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. The defendant always assaulted the victim in 2016. Therefore, to prevent the defendant from committing crimes in the future, the public prosecutor requested for the court to impose a suspended prison sentence against the defendant.

The public defender requested for the court to apply a lenient punishment against the defendant, with consideration of the mitigating circumstances such as the defendant confessed the facts, regretted his actions and promised not to reoffend against the victim in the future.

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven, the court sentenced the defendant to 3 months in prison, suspended for 2 years. The court also imposed additional conditions on the defendant to periodically appear at the court once a month for three months.

4. Crime of simple offences against physical integrity

Case No.	: 0269/17.PDDIL
Composition of the Court	: Single Judge
Judge	: Albertina Neves
Prosecutor	: Renato Bere Nahak
Public Defender	: Elda Baptista Gomes (trainee private lawyer)
Type of Penalty	: 2 months in prison, suspended for 1 year

On 03 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant Etelvina José Flaviana who allegedly committed the offence against the victim Francisca Xavier in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that the defendant that on 17 July 2017, at 7am, the victim went to the defendant's house to ask for US\$400.00 that the defendant owed. However, the defendant did

not want to pay and they had an argument. The defendant scratched the victim's face and tore the victim's clothing. As a result of this act the victim's clothing was torn, and the victim suffered an injury to her face.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence²

During the trial, the defendant acknowledged that he borrowed US\$400.00 from the victim with interest of 25 percent every month. The defendant also stated that to date she had paid the interest and the principal amount, but was late making payments over the last six months. Then on 17 July 2017 the defendant went to the sub-village chief with two months of interest totalling US\$200.00 with the intention of the sub-village chief handing the money over to the victim because previously there was a problem and the sub-village chief resolved it. However, previously the defendant went to the home of the sub-village chief, and suddenly the victim came from behind and pulled the defendant's hair and they ended up fighting. The defendant stated that during the incident the victim bit off one of the defendant's fingers but the defendant did not make a complaint.

The victim fully confirmed the facts set out in the indictment of the public prosecutor and stated that she bit off the defendant's finger because defendant put her finger in the victim's mouth and tried to pull on the victim's tongue.

The witness Milanoza Xavier, who is the daughter of the victim, testified that she knew that the defendant owed money to the victim but in relation to the fight the witness did not see it because at that time the witness was at school.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime in accordance with the facts set out in the indictment of the public prosecutor, and therefore the public prosecutor requested for the court to give careful consideration and to impose a fair penalty.

The public defender requested for the court to change the charge of simple offences against physical integrity to the crime of reciprocal offences against physical integrity provided for in Article 151 of the Penal Code. The Public Defender requested for the court to impose a fair

² Before proceeding with the presentation of evidence, the court tried to reach conciliation because this was a semi-public crime, however the victim did not want to, and preferred for this case to be tried by the court.

penalty against the defendant because the examination of evidence indicated that it was not just a case of the defendant assaulting the victim but the victim also assaulted the defendant or fought with the victim and the victim bit off one of the defendant's fingers.

Decision

After evaluating all of the facts that had been proven, the court maintained the charges of the Public Prosecutor and concluded that the defendant was found to have independently scratched the victim's face and caused a small injury on the left side of the victim's face. The court also found that this case occurred because they argued about US\$400.00 that the victim owed. Based on the facts that were proven, the court sentenced the defendant to 2 months in prison, suspended for 1 year.

5. Crime of misappropriation of public assets

Case No. : 0043/17. PGGCC
Composition of the Court : Single judge
Judge : Zulmira A. Barros da Silva
Prosecutor : Jacinto Babo Soares
Public Defender : Cancio Xavier
Type of penalty : 6 months in prison, suspended for 1 year

On 03 July 2018 the Dili District Court conducted a hearing to announce its sentence for the crime of misappropriation of public assets involving the defendant Henrique da Costa Araujo who allegedly committed the offence against the State in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that the defendant was a public servant at the National Directorate for State Assets within the Ministry of Finance who was responsible for auctions. As a public servant the Ministry of Finance gave the defendant a Toyota car with the number plate 01-076G to use for operational purposes. On 03 March 2017, at approximately 11.00am, the defendant was driving this car and picked up some supporters of the Fretilin Party to attend presidential campaign activities for the presidential candidate Francisco Guterres Lu-Olo in Ermera Municipality. The defendant was driving the car without the knowledge of the Director of Logistics and Asset Management.

The public prosecutor alleged that the defendant violated Article 296 of the Penal Code on the crime of misappropriation of public assets that carries a maximum penalty of two years.

Presentation of evidence

During the trial the defendant acknowledged that he took the government car to Ermera because the defendant's colleague (GM), who was also a public servant at the Directorate of Property, had

asked the defendant to pick up GM's wife and some goods to travel to Ermera because his colleague's father had passed away. The defendant acknowledged that he did pick up some supporters of Lu-Olo at Tasi-Tolu and dropped them off at Gleno but the defendant said that he did not attend the campaign.

The witness GM testified that he did ask the defendant to help take some goods to Ermera because the witness' father had passed away. The witness also confirmed that they used the car without the knowledge of the Director of Logistics and Asset Management.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime in accordance with the facts set out in the indictment and requested for the court to impose a fine against the defendant.

The public defender requested for the court to impose an admonishment because the defendant confessed, regretted his actions and is responsible for supporting his family. However, if the court was to decide otherwise, then the public defender requested an appropriate penalty to be imposed against the defendant.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime of misappropriation of public assets based on the facts set out in the indictment. Based on the facts that were proven, including all of the circumstances, the court sentenced the defendant to 6 months in prison, suspended for 1 year.

6. Crime of simple offences against physical integrity

Case No.	: 0556/17.DICMR
Composition of the Court	: Single judge
Judge	: Albertina Neves
Prosecutor	: Benvinda do Rosario
Public Defender	: Agustinha de Oliveira
Type of penalty	: Withdrawal of complaint

On 5 July 2017 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Manuel Pereira Ximenes who allegedly committed the offence against his niece Juisinha Penalva Silva Lopes in Dili District³.

Presentation of evidence

³ The court did not read out the indictment of the public prosecutor

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the victim was willing to withdraw her complaint because the defendant apologised to the victim. In addition, the defendant agreed with the victim's request to withdraw the complaint.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

7. Crime of Robbery

Case No.	: 0225/17. DICMR
Composition of the Court	: Panel
Judges	: Duarte Tilman, Zulmira A. Barros da Silva and Sribuana da Costa
Prosecutor	: Pedro Baptista
Public Defender	: Aderito dos Reis
Type of penalty	: 1 year in prison, suspended for 3 months

On 06 August 2018 the Dili District Court announced its decision in a case of robbery involving the defendant Januario do Santos Fátima and the victim Mario de Jesus Mota, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 05 May 2017, at approximately 10pm, the victim was riding a Mega-Pro motorcycle from Lafatik Komoro to Rai-kotu. The defendant and two of his friends stopped the victim in the middle of the road, and without any clear reason the defendant shoved some bread into the victim's mouth, and punched the victim once in the nose. The defendant also removed the victim's helmet from his head and struck the victim three times in the head with the helmet. The victim left his motorcycle behind and ran off to complain to the police.

The prosecutor alleged that when the police arrived at the scene the defendant had pushed the victim's motorcycle to his house.

The public prosecutor alleged that the defendant violated Article 253.1 of the Penal Code on robbery that carries a maximum penalty of 3-10 years in prison.

Presentation of evidence

During the trial the defendant partially confessed that he and two friends were drunk when they stopped the victim. The defendant acknowledged that he shoved some bread in the victim's mouth and punched the victim once in the nose but the defendant denied that he struck the victim three times in the head with the helmet and pushed the victim's motorcycle to his house. The defendant stated that he regretted his actions and promised not to reoffend in the future.

The court did not hear the victim's testimony because the victim has passed away, based on a statement from his village.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime of robbery based on the facts set out in the indictment of the public prosecutor but because the defendant partially confessed, regretted his actions and was drunk when he committed the crime, the public prosecutor requested for the court to sentence the defendant to three years in prison, suspended for five years.

The public defender requested for the court to acquit the defendant from the charges because the defendant's actions did not fulfil the elements of the crime of robbery. The public defender argued that the defendant was guilty of shoving some bread in the victim's mouth and punching him once in the nose, but the defendant did not push the victim's motorcycle to his house and the victim left his motorcycle at the scene.

Decision

After evaluating all of the facts the court found that the defendant shoved some bread into the victim's mouth and punched the victim once in the nose, but did not take the victim's motorcycle. The court stated that this violence was an element of the crime of robbery. For this reason the court imposed a prison sentence of 1 year and 3 months against the defendant. The court found that the defendant had already served this sentence because during the investigation process and trial the defendant was in pre-trial prison for one year and three months.

8. Crime of simple offences against physical integrity and property damage

Case No.	: 0111/17.ERSIC
Composition of the Court	: Single judge
Judge	: Sribuana da Costa
Prosecutor	: Osorio de Deus
Public Defender	: Estaque Pereira Guterres
Type of penalty	: Withdrawal of complaint

On 06 July 2018 the Dili District Court, through the mobile court in Ermera District, attempted conciliation in a case of simple offences against physical integrity involving the defendants Simão Soares, Belzito Soares and Amanto de Araújo (brothers) and the victims Fernando Manuel Maia Exposto and Rui Maria dos Santos, in Ermera District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 07 May 2017, at approximately 1am, the defendant Amanto de Araújo punched the victim Rui once in the cheek and caused swelling and bruising. In addition, the defendants threw stones at the victims' house and caused damage to two sheets of corrugated iron and one door. This problem required the intervention of the police.

Prior to the incident the defendants took a machete and were yelling and throwing stones at the victims' house. The defendants suspected that the victims' sister had used some black magic to make the defendants' mother ill. The victim Fernando went to meet with the defendants and said his sister was not at home. The victim also did not accept that the defendants had accused his sister of being a witch. Therefore they argued and then the assault occurred.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity and Article 258 on property damage that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

For semi-public crimes, before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between defendants and victims.

During this attempted conciliation the victims wanted to withdraw their complaint, because previously they had resolved the matter at the church with the involvement of the village chief, the priest and the families of the two parties. Also, the defendants apologised to the victims and stated that they regretted their actions. The defendants also promised not to repeat their behaviour in the future.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victims to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

9. Crime of simple offences against physical integrity

Case No. : 0058/17.ERSIC
Composition of the Court : Single judge
Judge : Sribuana da Costa
Prosecutor : Osorio de Deus
Public Defender : Estaque Pereira Guterres
Type of penalty : Withdrawal of complaint

On 06 July 2018 the District Court through the mobile court in Ermera District attempted conciliation in a case of simple offences against physical integrity involving the defendants Angelica Madeira, Julio de Jesus Madeira and Natalino Soares and the victim Fernanda Xavier de Jesus, in Ermera District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 13 March 2017, at approximately 7.13pm, the defendants went to the victim's house and shouted “*attack, attack,*” When they got to the victim's house the defendant Natalino Soares threw a stone into the victim's home and struck the victim on the back. The defendant Angelica Madeira approached the victim and grabbed her arm and hair. The defendant Julio punched the victim in the back. Before the incident occurred the victim went to the home of the defendants and asked about the defendant's son who wrote bad things against the victim's daughter on the road.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

For semi-public crimes, before progressing to the presentation of evidence, the judge may seek to reach conciliation between defendants and victims.

During this attempted conciliation, the victim wanted to withdraw her complaint, because they obtained an amicable agreement because they had resolved the matter before the village chief and the defendants gave US\$50.00 and a pig to the victim. In addition the defendants regretted their actions and promised not to repeat these acts in the future.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

10. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0144/16.DIBCR
Composition of the Court : Single judge
Judge : Sribuana da Costa
Prosecutor : Bartolomeu de Araujo
Public Defender : Miquel A. Fernandes (private trainee lawyer)
Type of penalty : 1 month in prison, suspended for 1 year

On 09 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant NXdS who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 01 August 2016, at approximately 7am, the defendant took a sandal and threw it at the victim's back and caused the victim to suffer pain to her back. Prior to this incident the victim was washing clothes and the defendant asked the victim to make him a coffee. However, the victim told the defendant that their aunty had made some coffee and told the defendant to go and get the coffee from the table. However, the defendant swore and insulted the victim. The defendant also asked what she had done that morning, and that if she didn't want to look after the defendant then it would be better for the victim to go to her house, so the defendant threw a sandal at the victim.

On the next day the victim questioned the defendant because she suspected that the defendant had an amorous relationship with another woman but the defendant denied this. However, the victim insisted and told the defendant that he had another daughter and this is why he was sending the victim away. The victim was unhappy and stayed at her brother's house and after four days the defendant asked the victim to return and live with the defendant.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant also stated that 4 days later he reconciled

with the victim. After the incident the defendant did not beat the victim again. Because the defendant confessed all the facts in the indictment, the public prosecutor requested for the court not to hear the testimony from the victim.

Final recommendations

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. However, to deter the defendant from committing such crimes in the future, the public prosecutor requested for the court to sentence the defendant to 1 month in prison, suspended for 1 year.

The public defender requested for the court to apply a lenient punishment against the defendant, with consideration of the mitigating circumstances such as the defendant confessed the facts, regretted his actions and promised not to reoffend against the victim in the future.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 month in prison, suspended for 1 year.

11. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0009/17.DINFT
Composition of the Court	: Single judge
Judge	: Sribuana da Costa
Prosecutor	: Benvinda do Rosario
Public Defender	: Rui Manuel Guterres
Type of penalty	: 3 months in prison, suspended for 1 year

On 09 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CAL who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 30 January 2017, at approximately 7am, the defendant and the victim argued about the victim's father taking their child to Oecusse. While they were arguing the victim touched the defendant's face, so the defendant punched the victim six times in the back, punched her once in the forehead and used a belt to strike the victim on the back. These acts caused the victim to suffer pain to her back and swelling to her forehead.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant also stated that he apologised to the victim and they have reconciled.

The victim maintained the facts in the indictment and stated that she has reconciled with the defendant. The victim also stated that this was the first time that the defendant had assaulted the victim and the defendant provides for the victim and their three children.

Final recommendations

The public prosecutor maintained the facts set out in the indictment to deter the defendant from reoffending in the future and also considering that crimes of domestic violence are on the rise, the public prosecutor requested for the court to impose a suspended prison sentence against the defendant.

The public defender requested for the court to apply a lenient sentence against the defendant because the defendant confessed the facts set out in the indictment, regretted his actions and provides for the victim and their three children.

Decision

After evaluating the facts associated with this case, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven, including all of the relevant circumstances, the court sentenced the defendant to 3 months in prison, suspended for 1 year.

12. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0456/17.PDDIL
Composition of the Court	: Single judge
Judge	: Francisca Cabral
Prosecutor	: Nelson de Carvalho
Public Defender	: Rui Guterres
Type of penalty	: Fine of US\$ 60.00

On 09 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant VdA who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 15 December 2017, at approximately 12.00 midnight, the defendant was drunk and grabbed and stomped on the right side of the victim's stomach, and took a helmet and struck the victim twice in the head.

Prior to this incident, the defendant and the victim were returning from a family visit to their home. On the way the defendant suspected that the victim was taking part in martial arts so the defendant questioned the victim. However, the victim said she wasn't. The defendant questioned her further and when they arrived at home the victim did not go inside because she was afraid of the defendant. After waiting for some time the defendant went outside to look for the victim and found the victim by the river, so the defendant committed the aforementioned crime against the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, stated that he regretted his actions and said that at the time of the incident he was heavily drunk. The defendant and the victim have reconciled. The victim maintained the facts set out in the indictment and stated that they have reconciled.

Final recommendations

The public prosecutor stated that the defendant committed the crime against the victim. The court also considered the mitigating circumstances such as the defendant regretted his actions and has reconciled with the victim. However, to deter the defendant from committing further acts against the victim in the future, the public prosecutor requested for the court to impose a suspended prison sentence against the defendant.

The public defender requested for the court to impose a fine against the defendant, because the defendant confessed, regretted his actions and promised not to reoffend against the victim in the future. In addition, when the incident occurred the defendant was heavily drunk.

Decision

The court found the defendant guilty of committing the crime against the victim. Based on the facts that were proven the court ordered the defendant to pay a fine of US\$60.00 through daily instalments of US\$ 1.00 for 60 days. If the defendant does not pay this fine then he will be sent to prison for 2 months as an alternative punishment.

13. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0545/17. DICMR
Composition of the Court	: Single judge
Judge	: Eusebio Xavier Victor
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Sebastião Amado
Type of penalty	: Penalty of admonishment

On 11 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EBL who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 14 October 2017, at approximately 9pm, the defendant punched the victim once on the back of the neck and the victim ran away. When the victim ran away, the defendant threw a stone at the victim but missed, so the defendant smashed five windows, a television and a fan. Prior to this incident, when the victim was returning from a neighbour's house, the victim saw the defendant sleeping because he was drunk. The victim took the defendant's mobile phone and accessed the defendant's Facebook (FB). When the defendant woke up startled he saw the victim accessing his FB, and they argued and then the assault occurred. These acts caused the victim to suffer pain to the back of her neck and she was traumatised and upset.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity, as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence that carries a maximum penalty of three years in prison, as well as Article 258 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine.

Before proceeding to the examination of evidence, the court attempted conciliation for the crime of property damage. The victim was willing to withdraw her complaint about the crime of property damage against the defendant because the defendant regretted his actions and had replaced the damaged goods. The court sought confirmation from the prosecutor and public defender, and then endorsed the victim's wish to withdraw the complaint.

Presentation of evidence

During the trial the defendant acknowledged that the defendant was drunk but he did not strike the victim on the back of the neck. The Defendant also said that he regretted his actions and promised not to commit any more crimes in the future.

In addition, the victim stated that the defendant did not hit the victim but slapped her lightly on the back of the neck. The victim also stated that that they reconciled one day later and this was the first time that the defendant had assaulted her.

Final recommendations

The public prosecutor stated that the defendant committed the crime of simple offences against physical integrity against the victim even though the defendant denied hitting the victim and said he had slapped her on the back of the neck. Therefore, after considering the mitigating circumstances such as the defendant regretted his actions, has reconciled with the victim and promised not to reoffend in the future, the public prosecutor requested for the court to issue an admonishment against the defendant.

The public defender stated that the defendant did not strike the victim on the back of the neck even though the victim said that he that lightly slapped her, so the public defender requested for the court to acquit the defendant from the charges.

Decision

The court found that the defendant had punched the victim on the back of the neck. Based on the facts that were proven and the mitigating circumstances, such as the defendant had confessed to the facts set out in the indictment, regretted his actions and has reconciled with victim, the court issued an admonishment against the defendant.

14. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0018/17.ALRMX
Composition of the Court	: Single judge
Judge	: Maria Modesta
Prosecutor	: Nelson de Carvalho
Public Defender	: Afonso Gomes
Type of penalty	: 3 months in prison, suspended for 1 year

On 12 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AS who allegedly committed the offence against his wife in Aileu District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 18 June 2017 at 8am the defendant punched the victim three times in the head. This case occurred when the defendant asked the victim about their land documents but the victim responded that she had already given them to the defendant's father. This act caused the victim to suffer pain and required treatment at the health centre.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts in the indictment of the prosecutor and stated that he was very angry with the victim because he was going to take some land documents to the village chief for signature. In addition, the defendant was angry because the victim gave the documents to his father without the knowledge of the defendant.

The victim confirmed the facts and also corroborated the defendant's statement that he gave the document to the defendant's father without the knowledge of the defendant. The victim also stated that this was the first time that the defendant committed a crime against the victim and they have resolved this problem in accordance with East Timorese custom.

Final recommendations

During the trial the defendant confessed all of the facts and stated that he had good intentions to protect this document, but his actions were against the law.

The public defender requested for the court to issue an admonishment against the defendant because the defendant confessed, collaborated with the court and this was the first time that he had committed a crime against the victim.

Decision

After evaluating the facts, the court found the defendant guilty of committing the crime against the victim. Based on the evidence, the court sentenced the defendant to 3 months in prison, suspended for 1 year.

15. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0066/17. DINFT
Composition of the Court	: Single judge
Judge	: Antonio Helder do Carmo
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Ismail da Conceição
Type of penalty	: 1 year in prison, suspended for 2 years

On 13 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant VC who allegedly committed the offence against her son (JdC) aged 13 in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 04 May 2017 the victim went to look at clothing on sale at the Taibesi Market and returned at 7pm. The victim knocked on the door but the defendant did not open the door so the victim went and slept at the Taibesi Market and only returned in the morning, so the defendant beat the victim many times with a cable on his body and struck him in the head with a machete. These actions caused the victim to suffer swelling, redness and pain to his body.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

The defendant was not present in the court because the court did not know her whereabouts, and based on information provided, the defendant had fled to Oecusse.

The victim confirmed all of the facts set out in the indictment and stated that the defendant took the victim out of school and forced the victim to sell boiled eggs to support the family. The victim also stated that the defendant always physically assaulted him and forced the victim to eat all of the leftover eggs if he couldn't sell them all.

The witness AS, who is the mother of the victim's friend, confirmed the facts set out in the indictment of the public prosecutor and testified that she also heard information from their neighbours that the defendant and her husband often physically assaulted the victim and once the defendant hung the victim up and beat him.

Final recommendations

The public prosecutor maintained the charges and requested for the court to impose a prison sentence of 1 year, suspended for 1 year. The public defender requested for the court to impose an appropriate and fair penalty against the defendant because the court did not hear testimony from the defendant.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment of the prosecutor. Based on all of the facts that were proven and the relevant circumstances, the court sentenced the defendant to 1 year in prison, suspended for 2 years.

16. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0667/16.DICMR
Composition of the Court : Single judge
Judge : Maria Solana
Prosecutor : Bartolomeu de Araujo
Public Defender : Carlos Mendonça (private lawyer)
Type of penalty : 1 year in prison, suspended for 2 years

On 13 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ES who allegedly committed the offence against his brother in law in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 November 2016, at 7pm, the defendant took a piece of pipe and struck the victim once on his left leg, once on the right side of his stomach and on the left and right sides of his body. These actions caused the victim to suffer swelling to his knees, side of his body, head and heavy bleeding to the right side of his stomach. Prior to the incident, the victim was eating at home and he heard the defendant swear at the victim's wife (the defendant's sister) and asked her to give back his money to pay for his younger sibling's school. Therefore the victim stood up and moved over next to his wife and pulled her into the bedroom. The defendant went outside and took a piece of pipe and assaulted the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant acknowledged that he took the piece of pipe and aimed at the victim but missed and struck a plastic chair. Then the neighbours took the piece of pipe away from the defendant. The defendant also stated that after the incident the defendant and victim have been living together.

The victim confirmed the facts set out in the indictment and stated that as a result of the defendant's actions the victim had to use a walking stick for two weeks when he was at work.

The witness PM lives together with the defendant and the victim, and testified that at the time of the incident the defendant swore at the victim's wife and took a piece of pipe and beat the victim. The witness testified also that when the defendant went out to fetch the pipe the victim also went into the bedroom to get a machete, but when the victim went out and saw the defendant holding on to a piece of pipe, the victim put the machete down and picked up a chair to defend himself

from the piece of pipe that the defendant was using to beat the victim. Therefore the piece of pipe did not strike the victim's body.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime in accordance with the facts set out in the indictment and requested for the court to impose an appropriate penalty against the defendant. The public defender requested for the court to impose a lenient penalty against the defendant with consideration of the mitigating circumstances such as the defendant expressed regret and has reconciled with the victim even though they are not living together anymore.

Decision

The court found that all of the facts set out in the indictment were proven. Based on the facts that were proven, the court sentenced the defendant to 1 year in prison, suspended for 2 years.

17. Crime of embezzlement and intentional mismanagement

Case No. : 0021/15.PGGCC
Composition of the Court : Panel
Judges : Jose Maria, Maria Solana, Ivan Gonçalves and Albertina das Neves
Prosecutor : Rogerio Viegas
Legal Representatives : Rui Guterres and Adelina Mistica (private lawyers)
Type of penalty : Prison sentence of 5 years for the defendant Francisco and prison sentence of 2 year and 6 months, suspended for 3 years, for the defendant Luis and each defendant ordered to pay civil compensation.

On 16 July 2018 the Dili District Court conducted a hearing to announce its decision in a case of embezzlement and intentional mismanagement involving the defendants Luis de Fátima and Francisco Pereira do Rego who allegedly committed the crimes against the State through the Department of Revenue at the Guido Valadares National Hospital, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 2014 the defendant Luis de Fátima was the treasurer at the Department of Revenue, Guido Valadares National Hospital, and the defendant Francisco Pereira do Rego was an administrator at the Guido Valadares National Hospital, and they used money collected through revenue at the hospital for their private interests. This revenue was obtained from the VIP rooms, radiology, acupuncture doctors, national health laboratory, gynaecology and obstetricians and a room leased out for a canteen at the national hospital.

In 2014 the national hospital received revenue totalling US\$99,905. This revenue is subject to Decree-Law No.01/2014 on Revenue, that states that the money must be deposited into the State's bank account and needs to be reported after 15 days. However, from total revenue of US\$99,905 the defendant Luis de Fátima only deposited US\$24,900 into the State's bank account and US\$75,405.35 was not deposited by the defendant.

This money was not deposited and the defendant Luis de Fátima used the money to lend it to staff members of the national hospital and he did not keep a list of the people who borrowed the money. Therefore the defendant does not remember the identity of these people. The defendant could only remember lending US\$12,000 to the defendant Francisco do Rego and the money was used for private interests.

The public prosecutor also found out that the defendant Francisco do Rego was interested in using this revenue by involving the defendant Luis de Fátima who is elderly and does not have the capacity to draft a report without the use of a computer.

The two defendants violated Article 14 of Law No.13/2009 on Budgets and Financial Management and Decree Law No.01/2014 on Revenue.

The public prosecutor alleged that the two defendants violated Article 295 of the Penal Code on embezzlement and violated Article 274 of the Penal Code on intentional mismanagement.

Presentation of evidence

During the trial the Defendant Luis de Fátima acknowledged that he did not deposit US\$75,405.35 and lent the money to staff at the national hospital. The defendant stated that he could not remember the identities of the people who borrowed the money because he never made a list. The defendant could only remember lending US\$12,000 to the defendant Francisco do Rego and the money was used for private interests.

The defendant Francisco do Rego acknowledged that he borrowed US\$12,000 from “Petty Cash” to buy things for the national hospital, but in reality he only used US\$4,449 for the hospital and he used the rest for his own interests.

Final recommendations

The public prosecutor stated that all of the facts had been proven, and that the defendants had conspired to use State revenue for their own purposes. The defendants also knew that the Law on Financial Management prohibited them from using revenue for annual expenditure.

The public prosecutor requested for the court to punish the defendant Luis de Fátima with a prison sentence of 2 years six months, suspended for 3 years and to order him to pay civil compensation of US\$600 from a total of US\$2,000, because the defendant had given back US\$1,400.

The public prosecutor also found out that the defendant Francisco do Rego took advantage of the defendant Luis de Fátima who is elderly and does not have the capacity to draft a report without the use of a computer.

Therefore the public prosecutor requested for the court to impose a prison sentence of 5 years against the defendant Francisco do Rego and requested for the court to order him to pay compensation to the State totalling US\$38,000.

The defence requested for the court to acquit the defendant Francisco do Rego from the crime of embezzlement because their client had to purchase goods for the hospital that were urgent in nature, such as fuel for generators, because the defence stated that if the defendant did not quickly purchase the goods the freezer would be damaged and this would affect the blood and people using oxygen would be at risk. The defence said the crime of embezzlement could be considered if the defendant had benefitted from the money he had used. However, in reality the money was used to purchase goods for the hospital that were urgent in nature, and there were no funds available.

For the crime of intentional mismanagement, the defence requested for the court to impose a lenient penalty because when considering such offences the defendant must be entrusted with higher responsibilities.

The defence requested for the court to impose a lenient penalty against the defendant Luis Fátima because he had returned some of the money to the State through the Public Prosecution Service.

Decision

After evaluating all of the facts the court considered that the charges were proven and the Court also considered that the two defendants conspired together to only deposit some of the hospital's revenue into State coffers and used the rest for their private interests.

The court also found out that the defendant Francisco do Rego was an administrator at the national hospital and had an interest in using this revenue by involving the defendant Luis de Fátima who is elderly and does not have the capacity to draft a report without the use of a computer.

The two defendants knew that funds obtained through revenue needed to be deposited in the State's bank account, and therefore the defendants violated Article 14 of Law No. 13/2009 on Budgets and Financial Management and Decree-Law No. 01/2014 on Revenue.

The court concluded the matter and sentenced the defendant Francisco Pereira to 5 years in prison and ordered him to pay civil compensation of US\$38,000. The defendant Luis de Fátima was sentenced by the court to 2 years and six months in prison, suspended for 3 years and ordered him to pay civil compensation of US \$2,000, however because he had already given back US\$1,600 he only needs to pay another US\$ 400.

18. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0219/16.PDDIL
Composition of the Court : Single judge
Judge : Jumiaty Maria Freitas
Prosecutor : Nelson de Carvalho
Public Defender : Sebastião Amado de Almeida
Type of penalty : Acquitted

On 17 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant Fransisco da Costa who allegedly committed the offence against the victim Moises Fernandes in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 27 April 201 at approximately 1pm the defendant punched the victim once in the forehead and caused swelling and heavy bleeding.

Prior to the incident, the victim and the defendant went to the PNTL Kaikoli Office to resolve a problem between the victim and the defendant's younger sister. The defendant was with a lot of people and when he got there the defendant told the victim that he was going too far and he committed the crime against the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendant acknowledged that he went to the PNTL Office, but with his driver, and he did not punch the victim. The defendant also stated that he had limited time because it was almost time to go to work. In the evening he was surprised when he saw on the TV the victim had been punched in the forehead and suffered bleeding.

Meanwhile the victim confirmed the facts set out in the indictment and stated that he had no problem with the defendant but actually had a problem with the defendant's sister who lived near him.

The witness AD, who is the victim's wife, stated that the defendant was standing next to the victim but she did not see who punched the victim because there were many people there at the time making a lot of noise. The witness was surprised to see the victim bleeding from his head.

Final recommendations

The public prosecutor requested for the court to use its own discretion to convict the defendant because the defendant denied that he hit the victim, and did not go to the police station with a lot of people. In addition, the witness, who is the victim's wife, did not see who punched the victim.

The public defender requested for the court to acquit the defendant from this crime because the defendant denied that he hit the victim and corroborated the testimony of the witness, who is the victim's wife, that she did not see who punched the victim.

Decision

After evaluating all of the facts, the court acquitted the defendant from the charges of the public prosecutor because the court found that the defendant did not commit the crime against the victim.

19. Crime of simple offences against physical integrity

Case No.	: 0267/17.DICMR
Composition of the Court	: Single judge
Judge	: Jumiaty Freitas
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Humberto Alves
Type of penalty	: Withdrawal of complaint

On 18 July 2018 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Jeronimo Henriques who allegedly committed the offence against the victim Anita Amaral in Dili District⁴.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the victim was willing to withdraw her complaint because the defendant apologised to the victim.

⁴The court did not read out the indictment of the public prosecutor

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

20. Crime of sexual abuse against a minor

Case No. : 0101/17.PDDIL
Composition of the Court : Panel
Judges : Euzébio Xavier Victor, Ana Paula Fonseca and
Jacinta Correia
Prosecutor : António Tavarres
Public Defender : Manuel Lito Exposto
Type of penalty : Acquitted

On 18 July 2018 the Dili District Court conducted a hearing to announce its decision in a case of sexual abuse of a minor involving the defendant SdS who allegedly committed the offence against the victim JC, in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on January 2017 the defendant met the victim and exchanged phone numbers with the victim. On 18 March 2017, at approximately 11pm, the defendant rang the victim and told the victim to come down and meet him and the defendant really missed the victim. However, the victim told the defendant that she could not meet the defendant because it was night-time. The defendant asked the victim “are the two of us in a relationship or what?”

Because the defendant spoke in this way the victim took out her motorcycle and went straight to the defendant's home which was close to the victim's home. The defendant was standing at the front of the house and when the victim got there the two of them stood together for several minutes. The defendant and the victim went into the defendant's bedroom because the defendant told the victim that he was afraid that the neighbours would see them. The victim did not want to go into the defendant's bedroom but the defendant persuaded the victim by saying several different things, so the victim followed the defendant into his bedroom.

In the bedroom the defendant said that he loved the victim, and he approached the victim, and used force to lay the victim on the bed. Then the defendant removed the victim's clothes and had sexual intercourse with the victim.

On 20 March 2017, at approximately 11pm, the defendant again rang the victim and told the victim to meet him. The defendant also told the victim that if she did not meet him the defendant would wait on the road because previously they had sexual intercourse. Therefore, the victim forced herself to meet the defendant at his house. The defendant opened the door and told the victim to go into his bedroom. In the bedroom the defendant asked the victim to have sexual intercourse. However the victim refused because she was menstruating.

The public prosecutor alleged that the victim did not want to perform any sexual acts with the defendant, but the defendant took advantage of the victim's young age. At the time of the incident the victim was less than 14 years of age.

The public prosecutor alleged that the defendant violated Article 177 of the Penal Code on the sexual abuse of a minor that carries a maximum penalty of 5-15 years in prison.

Presentation of evidence

During the trial the defendant completely rejected the facts set out in the indictment. The defendant stated that on 21 March 2017 early in the morning the defendant heard a female voice (the victim) say "help me I'm dying". So the defendant thought it was his female cousins so he opened the door and suddenly the victim ran inside the defendant's house and hid under the defendant's bed.

The defendant was confused and went and stood at the front of the house and saw the victim's family looking down. The defendant went to the victim and asked her who she was afraid of. Not long after the victim's family members went to the defendant's home and beat the defendant until he started bleeding.

At that moment the defendant's family and the victim's family took them to the victim's house and saw that the victim's bra strap was broken, her pants were not done up, and her blouse was back to front.

However, the victim confirmed the facts set out in the indictment of the public prosecutor and stated that the defendant and the victim started a romantic relationship in January 2017, and two months later the incident occurred.

The witness BG, who is the victim's cousin, testified that on 20 March 2017 at 11pm the witness was about to go to sleep and the witness saw that a light was still on at the victim's house. Therefore, to do what he had been told by the victim's mother, he kept an eye on the victim and the victim's father who had suffered a stroke. Therefore the witness went into the victim's house and turned off the light and checked on the victim and her family. But when he checked the

bedroom the witness only saw the victim's father and younger brother who was aged five sleeping in the bedroom and the witness did not see the victim in her bedroom.

The witness woke up the victim's older brother and the witness' older sister went to look for the victim in the neighbourhood but couldn't find her. In addition, the victim's telephone was off and it was almost 02.00am. After one hour the witness tried to ring the victim and she answered. The witness asked the victim where she was and the victim said she was at a friend's house and said she was coming home.

But because he waited for a long time and the victim did not come back the witness went down and stood in front of the defendant's house and looked down to the road below. The witness also saw the defendant open his door and then quickly close it. The witness became suspicious and walked slowly to the defendant's house. Not long after the witness heard a female voice and a male voice having an argument and he heard the victim's voice.

The witness came back and told the victim's older brother and they went back to the defendant's house and knocked on the door to ask for the victim. However the defendant said that the victim wasn't there. The witness and the victim's brother did not believe this and forced him to open the door and he saw the victim under the defendant's bed. The witnesses took the victim and the defendant to the victim's home and saw that the victim's bra strap was broken and her pants were undone.

Dr. Edegar Da Costa Soares, a doctor from the Dili National Hospital, testified that based on a medical report from Pradet, the victim had injuries but they were old injuries. In addition, the doctor also had doubts about the Pradet report because it did not provide details about the condition of the victim in the report.

Final recommendations

The public prosecutor requested for the court to provide fair justice for the defendant because the victim's family found the victim under the defendant's bed even though the defendant totally denied all of the facts and the Pradet report did not clearly explain about the victim's medical condition.

The public defender requested for the court to acquit the defendant because the defendant totally denied the charges. The defendant also stated that he was a victim because the victim's brother and cousins beat him without asking any questions and he suffered bleeding. In addition, the defendant also lost some goods.

Decision

After evaluating all of the facts, the court acquitted the defendant from the charges of the public prosecutor because it was not proven that the defendant had a romantic relationship with the victim and it was not proven that he had sexual intercourse with victim even though the victim was under the defendant's bed.

21. Crime of simple offences against physical integrity characterized as domestic violence and threats

Case No.	: 0140/18 PDDIL
Composition of the Court	: Single judge
Judge	: Edite Palmira
Prosecutor	: Nelson de Carvalho
Public Defender	: Jonas Henrique da Costa
Type of penalty	: 3 months in prison, suspended for 1 year, and a fine of US\$ 60.

On 18 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JdS (PNTL agent) who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on an unspecified date in December 2017, at 8.00pm, the defendant and the victim argued about money to pay for their child's school. The defendant bit the victim on her left cheek and punched the victim on the back of the neck. These acts caused the victim to suffer swelling and pain to her left cheek and back of the neck.

Then, on 7 April 2018 the defendant sent a SMS threatening the victim that he would beat the victim and shoot the victim dead because the victim was going to attack the defendant's mistress. The defendant sent this message when the defendant left the victim and took a mistress.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison, as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence, as well as Article 157 of the Penal Code on threats that carries a maximum penalty of 1 year in prison or a fine.

Before progressing to the presentation of evidence the court attempted conciliation for the crime of threats but the victim did not want to reconcile and wanted to progress to trial.

Presentation of evidence

During the trial the defendant stated that he did not bite or punch the victim but just pushed the victim because the victim swore at the defendant. The defendant also stated that he did not send a SMS to the victim threatening to beat the victim and shoot her dead.

The victim confirmed the facts that the defendant bit her and punched her on the back of the neck. However, in relation to the threatening message, the victim stated that she suspected that the defendant sent it because the phone telephone number that was used to send the threat had previously been used by the defendant on one occasion to call the victim. In addition, the victim had no problem with any other person.

Final recommendations

The public prosecutor stated that the defendant was guilty of biting the victim's left cheek and punching the victim once on the back of the neck and also threatening the victim via telephone. Therefore the prosecutor requested for the court to impose a fair and just penalty against the defendant. In addition, the prosecutor requested for the court to order the defendant to provide alimony for his child because the child is now with the victim.

The public defender requested for the court to acquit the defendant from the charges because the testimony of the defendant and the victim did not match and the defence had doubts about the allegations.

Decision

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Based on the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year in prison for the crime of simple offences against physical integrity. For the crime of threats, the court ordered the defendant to pay a fine of US\$60.00 through daily instalments of US\$ 1.00 for 60 days. The court also ordered the defendant to pay court costs of US\$40. If the defendant does not pay this fine then he will be sent to prison for one month as an alternative punishment.

22. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0046/18.DICMR
Composition of the Court	: Single judge
Judge	: Jumiaty Maria Freitas
Prosecutor	: Osorio de Deus
Public Defender	: Marcia Sarmento
Type of penalty	: 6 months in prison, suspended for 1 year

On 18 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant BdS who allegedly committed the offence against his former wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 26 January 2018, at approximately 11.00am, the defendant went to look for the victim at the Comoro Nursing School because the victim was selling goods at that school. The defendant grabbed the victim's left hand and pushed the victim's head. The defendant slapped the victim twice on the back of the neck and the victim fainted. The victim's female friend helped take the victim inside a room. These acts caused the victim to suffer pain to the back of her neck.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial, the Defendant totally confessed the facts set out in the indictment and stated that he regretted his actions. The defendant also stated that he went looking for the victim because he heard information from the victim's older brother that the victim was with another man. The victim confirmed the facts set out in the indictment and stated that she had another man because when the defendant was working in Baucau, the defendant never gave money to the victim.

Final recommendations

The public prosecutor maintained the charges and requested for the court to impose a prison sentence of 6 months, suspended for 1 year. The prosecutor requested a penalty to deter the defendant from reoffending in the future.

The public defender requested for the court to impose a fine against the defendant because the defendant confessed the facts set out in the indictment and stated that the defendant and the victim are now separated.

Decision

After evaluating the facts produced during the trial, the court found that the defendant grabbed the victim's arm, pushed the victim's head and slapped the victim twice on the back of the neck. Based on all of the facts that were proven and the relevant circumstances, the court sentenced the defendant to 6 months in prison, suspended for 1 year.

23. Crime of simple offences against physical integrity characterized as domestic violence and property damage

Case No. : 0176.DIBCR
Composition of the Court : Single judge

Judge : Antonio Helder Viana do Carmo
Prosecutor : Bartolomeu de Araujo
Public Defender : Laura Lay
Type of penalty : Penalty of admonishment

On 19 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence and property damage involving the defendant DM who allegedly committed the offence against her husband in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 14 September July 2017, at approximately 7am, the defendant grabbed the victim's phone and threw it against the wall and the screen of the phone cracked. The defendant also took a piece of wood and went to strike the victim's motorcycle (Meo Sport) but missed because the victim grabbed the defendant's arm. The defendant scratched the victim's right arm causing an injury. The defendant then took a crow bar and used the handle to strike the victim's motorcycle causing damage. The defendant took a jug of hot water and struck the victim's motorcycle and smashed the jug. Prior to the incident, the defendant saw a photograph of a woman on the victim's telephone. The defendant asked the victim about the woman but the victim did not respond, and then the assault occurred.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine, as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence, and property damage that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that she regretted her actions. The defendant also promised that she would not reoffend in the future and stated that they have reconciled.

The victim was not present in court because the victim was visiting her family in Portugal and the prosecutor told the court it was not necessary to hear testimony from the victim.

Final recommendations

The public prosecutor maintained the facts set out in the indictment, and therefore although the defendant expressed regret and collaborated with the court, the public prosecutor requested for the court to impose a suspended prison sentence against the defendant. In relation to the crime of property damage, the court decided to wait for the defendant to attend.

The public defender requested for the court to impose a lenient punishment against the defendant, because she confessed, regretted her actions and promised not to reoffend in the future. The defendant also has four children who she needs to look after.

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven, the court issued an admonishment against the defendant.

24. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0005/17.ALLQD
Composition of the Court : Single judge
Judge : Jumiatty Maria Freitas
Prosecutor : Bartolomeu de Araujo
Public Defender : Jose da Silva
Type of penalty : 6 months in prison, suspended for 1 year and 6 months

On 19 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant VVN who allegedly committed the offence against his wife in Aileu District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 22 July 2017, at approximately 4.00pm, the Defendant and the victim argued and the defendant told the victim to be quiet but the victim did not want to. The defendant verbally abused the victim and told the victim to find his boots, but the victim didn't want to so the defendant punched the victim three times on her left ear, punched her once in the forehead, punched her once on her right cheek and punched her once in the head. These acts caused the victim to suffer injuries to her forehead and pain to her ear and head.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial, the defendant confessed all of the facts and stated that he regretted his behaviour and has reconciled with the victim. The defendant also promised not to repeat his behaviour in the future.

The victim maintained the facts in the indictment and stated that she has reconciled with the defendant. The victim also stated that the defendant provides for them.

Final recommendations

The public prosecutor maintained the facts set out in the indictment, and therefore although the defendant expressed regret and collaborated with the court, the public prosecutor requested for the court to impose a suspended prison sentence on the defendant. The public defender requested for the court to impose a lenient punishment against the defendant, because he regretted his actions and promised not to reoffend in the future.

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven, the court sentenced the defendant to 6 months in prison, suspended for 6 months.

25. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0060/18.DIBCR
Composition of the Court	: Single judge
Judge	: Antonio Helder
Prosecutor	: Bartolomeu de Araujo
Public Defender	: Olga Barreto
Type of penalty	: 6 months in prison, suspended for 2 years with rules of conduct

On 27 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AHH who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that the victim and the defendant are separated, and then on 24 March 2018, at midnight the defendant went to see their children who are with the victim and the victim's mother. When the defendant went there he took 2 servings of fried rice and two cans of beer to give to the victim's mother.

After giving the fried rice to the victim's mother, the defendant went outside and insulted the victim with words that offended the victim's dignity. Therefore the defendant and the victim argued and the defendant poured some beer on the victim, slapped the victim twice on her left cheek and kicked the victim twice on her left side. These acts caused the victim to suffer pain to the parts of her body where she was assaulted and the victim received treatment at Pradet.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in

prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial, the defendant denied that he kicked the victim but acknowledged that he slapped the victim once because the victim took a shovel and tried to strike the defendant but the defendant resisted with his hand.

In relation to the beer, the defendant stated that he did not pour it on the victim but when the defendant and the victim were fighting over it the beer spilled on the two of them. The defendant also stated that he always looks after their children and his mother in law.

The victim stated that the defendant came to her house drunk and therefore the victim told the defendant to go back to his home but the defendant did not want to return and still bought some fried rice to the victim's mother. In addition, the victim stated that at that time the defendant treated the victim badly because he suspected that the victim was with another man. Because she was embarrassed at the verbal abuse, the victim took a shovel to chase the defendant.

The witness, who is the victim's mother, testified that the defendant went to their house at 1am and the defendant brought some fried rice and two cans of beer and gave it to the witness and asked if their child was asleep yet or not. When the defendant got in the car to go home the witness heard the defendant insult the victim, so the victim took a shovel and tried to hit the car but missed because the defendant stopped her and grabbed the shovel. The witness also testified that the defendant slapped her twice on the cheek and kicked her twice on her side.

Final recommendations

The public prosecutor requested for the court to impose a prison sentence of 1 month, suspended for 1 year, against the defendant. This is because the defendant went to the victim's home late at night, insulted the victim and committed the crime against the victim as stated in the indictment.

The defence requested for the court to provide fair justice for the defendant because the defendant confessed his actions. In addition the defence argued that the defendant committed the crime against the victim because the victim often assaulted the defendant.

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime against the victim. Based on this evidence, the court sentenced the defendant to six years in prison, suspended for two years, and ordered the defendant to appear periodically at the court once a month for three months. The court also ordered the defendant to pay court costs of US\$ 20.

26. Crime of simple offences against physical integrity characterized as domestic violence and threats

Case No.	: 0118/18.DICMR
Composition of the Court	: Single judge
Judge	: Maria Solana
Prosecutor	: Nelson de Carvalho
Public Defender	: Joana Cristina
Type of penalty	: Punishment of 1 year in prison, suspended for 2 years

On 28 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant IL who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on March 2018, at 7pm, the defendant punched the victim once in the head, twice in the mouth and twice in the cheek. The defendant also took a vegetable knife and pointed it at the victim and said he would kill the victim if the victim wanted to go to her parents on that evening. These acts caused the victim suffer an injury to her mouth and swelling to her cheek and head.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on threats and Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant fully confessed to the facts set out in the indictment of the prosecutor and stated that assaulted the victim because he saw that the victim had a message from another man which said they would meet up and kiss each other. In relation to threatening the victim with a knife, the defendant stated that he threatened her with the intention of frightening the victim who wanted to immediately go back to her parents on that evening. The defendant regretted his actions and stated that now they are separated.

The victim maintained the facts in the indictment and stated that she has separated from the defendant.

Final recommendations

The public prosecutor requested for the court to impose an appropriate penalty against the defendant because the defendant confessed and regretted his actions. The defence requested for

the court to impose a lenient penalty against the defendant because the defendant was a first time offender.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim once in the head, punched her twice in the mouth and twice in the cheek which caused an injury and swelling. In addition the court found that the defendant used a vegetable knife to threaten the victim. Based on this evidence the court settled this matter and sentenced the defendant to 1 year in prison, suspended for 2 years.

27. Sexual abuse of a person incapable of resistance

Case No. : 0279/15.PDDDIL
Composition of the Court : Panel
Judges : Edite Palmira dos Reis Maria Modesta and Ivan Patricinio Antonino
Prosecutor : José Elo
Public Defender : Marçal Mascarenhas
Type of penalty : 5 years in prison

On 30 July 2018 the Dili District Court conducted a hearing to announce its decision in a case of sexual abuse of a person incapable of resistance involving the defendant RPM who allegedly committed the offence against the victim RB, who had a physical disability⁵, in Aileu District.

Charges of the Public Prosecutor

The public prosecutor alleged that in the evening on an unspecified date in 2014 the victim was walking along a path through a coffee plantation to her aunt's house. The defendant saw the victim walking alone and the defendant pushed the victim into the coffee plantation.

Then the defendant removed the victim's clothes and had sexual intercourse with the victim. Then, on an unspecified date, the defendant followed the victim to her aunt's house and had sexual intercourse with the victim. In addition, on another unspecified date, the defendant had sexual intercourse again with the victim in a plantation. The defendant had sexual intercourse three times with the victim until she became pregnant and he took advantage of the victim's physical disability. The victim did not inform her family about these incidents because she was afraid.

The public prosecutor alleged that the defendant violated Article 179 of the Penal Code on sexual abuse of a person incapable of resistance that carries a maximum penalty of 4-12 years in prison.

⁵ The victim suffers a disability to her hand and her leg is twisted and she walks with a shuffle and cannot speak clearly.

Presentation of evidence

During the trial the defendant partially confessed to the facts that he had sexual intercourse with the victim three times but the defendant denied that he was the father of the victim's baby, because the victim became pregnant after more than one year. The defendant also stated that at that moment the victim was pregnant and the defendant was willing to marry the victim, but now the defendant already has a wife. The defendant regretted his actions and stated that at that time the defendant tried to resolve this problem, but the victim's older brother did not want to resolve the issue. The victim confirmed the facts set out in the indictment of the prosecutor.

The witness BB, who is the victim's sister in law, testified that she got information from the victim that the defendant was the father of the victim.

Final recommendations

The public prosecutor stated that the defendant took advantage of the victim's physical disability to have sexual intercourse. Therefore, although the defendant denied that he was the father of the victim's baby and he regretted his actions, the public prosecutor requested for the court to impose a prison sentence of five years against the defendant.

On the other hand the public defender requested for the court to impose a lenient sentence against the defendant because the defendant regretted his actions and now the defendant has a wife and a child.

Decision

The court found that the defendant had sexual intercourse with the victim three times, even though the defendant knew that the victim had a physical disability to her hand and foot. In relation to the victim's baby, the court did not find that the baby was the defendant's child. Based on this evidence the court sentenced the defendant to 5 years in prison.

28. Crime of driving without a licence and carrying a bladed weapon

Case No.	: 0001/18. DISTR
Composition of the Court	: Panel
Judges	: Duarte Tilman, Sribuana da Costa, Zulmira A. Barros da Silva
Prosecutor	: Alfonso Lopes
Defence	: Cancio Freitas and Miguel A. Fernandes (private lawyer)
Type of penalty	: 3 years in prison, suspended for 3 years and fine of US\$30.00

On 30 July 2018 the Dili District Court announced its decision in a case of driving without a licence and carrying a bladed weapon involving the defendant Domingos do Rosario do Santos, that allegedly occurred in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 07 January 2018, at 10pm, at the Dili Port the traffic police were stopping vehicles. At that time the police detained the defendant because he was riding a motorcycle without a licence, no registration plate and no original registration papers. In addition, the police found a knife in the motorcycle storage compartment.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine, and violated Articles 2 and 20.1 of Law No. 5/2017 on the Judicial Regime on the practice of martial arts, rituals, bladed weapons, darts and the Fifth Amendment to the Criminal Procedure Code that carries a penalty of 3 - 6 years in prison.

Presentation of evidence

During the trial the defendant fully confessed to the facts set out in the indictment and stated that the knife that he kept in the storage compartment of his motorcycle was to be used to kill a pig for a traditional ceremony in Hudi laran/Bairo Pite. The defendant stated that he had no intention to use the knife for sinister purposes.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime in accordance with the facts set out in the indictment and requested for the court to impose an appropriate and fair penalty against the defendant.

The defence requested for the court to impose a fair and adequate penalty because the defendant fully confessed the facts set out in the indictment, regretted his actions, was a first time offender and the defendant is also responsible for his family.

Decision

The court found that all of the facts in the indictment of the prosecutor were proven. For this reason the court to imposed a prison sentence of 3 years, suspended for 3 years, against the defendant for the crime of carrying a bladed weapon. In relation to the crime of driving without a licence, the court ordered the defendant to pay a fine of US\$30.00 through daily instalments of US\$ 0.50 for 60 days. The court also ordered the defendant to pay court costs of US\$20.00. If the defendant does not pay this fine then he will be sent to prison for 3 months as an alternative punishment.

29. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0552/17.DICMR
Composition of the Court : Panel
Judges : Edite Palmira, Maria Modesta, Ivan P. Gonsalves
Prosecutor : Bartolomeu de Araujo

Public Defender : João Henrique Carvalho
Type of penalty : 3 years in prison, suspended for 3 years

On 30 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MDS who allegedly committed the offence against his wife and daughter (JdA) in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 19 October 2017, at 11.00am, the defendant hit their daughter, so the defendant and victim argued and the defendant slapped the victim twice on her left cheek and once on the head.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant fully confessed to the facts set out in the indictment of the public prosecutor, regretted his actions and promised not to repeat his actions in the future against the two victims.

In addition, the victim MdA (the defendant's wife) confirmed the facts set out in the indictment and stated that she and her two children are staying with her parents the other two children are staying with the defendant because the defendant has a mistress.

Also, the victim (JdA) confirmed the facts set out in the indictment and stated that even though they are not living together with the defendant, the defendant always looks after them and provides for them.

Final recommendations

The public prosecutor requested for the court to impose a prison sentence of 3 months, suspended for 4 years, against the defendant. The public prosecutor stated that the defendant was guilty of committing the crime against the two victims.

The public defender requested for the court to impose a suspended prison sentence against the defendant because the defendant confessed, regretted his actions and promised not to repeat his actions in the future. In addition, the defendant also continues to provide for their children even though his two children are living with the victim.

Decision

After evaluating all of the facts, the court found that the defendant committed crime against his wife and daughter in accordance with the facts set out in the indictment. Therefore, the court found that the defendant committed two crimes (against his wife and his daughter). Based on this finding the court sentenced the defendant to two years in six months in prison for the crime against his wife. For the crime against his daughter, the court sentenced the defendant to one year in prison. For the two crimes the court imposed a single sentence of 3 years in prison, suspended for 3 years, and ordered the defendant to pay court costs of US\$50.

30. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0546/17 DICMR
Composition of the Court : Single judge
Judge : Maria Solana
Prosecutor : Nelson de Carvalho
Public Defenders : Marcelo Rosa and Acaçio Almeida
Type of penalty : Penalty of admonishment

On 31 July 2018 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JJF who allegedly committed the offence against his wife in Dili District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 October 2017, at 4.00pm, the defendant pulled the victim's hair and slammed her into a wall causing the victim to fall down and strike her head and arm against the wall. These acts caused the victim to suffer injuries to the head and arm. Prior to the assault the victim asked about a woman that the victim saw walking with the defendant, so they argued and then the assault occurred.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant fully confessed to all of the facts set out in the indictment, the defendant also stated that he regretted his actions and was a first time offender. The defendant has reconciled with the victim and promised not to reoffend in the future.

The victim maintained the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. However, because the defendant confessed the facts, regretted his actions, has reconciled with the victim and promised not to reoffend against the victim in the future, the public prosecutor requested for the court to impose a fair and appropriate penalty.

The public defender requested for the court to impose an admonishment with consideration of the mitigating circumstances as mentioned by the prosecutor.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment of the prosecutor. Based on the facts that were proven, and consideration of all of the relevant circumstances, the court issued an admonishment against the defendant.

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