



Case Summary

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Case Summary from the Oecusse District Court for the fourth week of November 2012

Introduction

For approximately one week between the 20th and 23rd November 2012 JSMP monitored six cases that were tried at the Oecusse District Court.

All of these six cases involved domestic violence. Five of these cases were decided and the other case is still being processed.

The five decisions took the form of fines ranging between US\$ 30 - 45.

Just like previous editions, this summary aims to disseminate information about the trial process at the Oecusse District Court during the fourth week of November 2012.

The information below outlines the hearings conducted:

1. Domestic Violence, Case No. 126/C.ord/2011/TDO

On 20 November 2012 the Oecusse District Court held a trial in Case No. 126/C.Ord/2011/TDO. This case involved the defendant Silvestre Neno who was accused of committing the crime against the victim Juana Colo on 14 June 2011 in Naimeco Village, Pante-Makassar Sub-District.

The hearing started with the reading out of the indictment by the public prosecutor. The indictment stated that on 14 June 2011 at approximately 12pm the defendant was searching for a key to some drawers to get some clothes, however because the key was missing the defendant damaged the drawers. Then victim and the defendant then argued and the defendant struck the victim on the side of the head and the victim suffered bruising and swelling.

In relation to the aforementioned facts, the public prosecutor charged the defendant with Article 145 of the Penal Code on ordinary maltreatment as well as Articles 2, 3, and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted his guilt and promised not to reoffend in the future. As the defendant admitted his guilt the court did not need to hear testimony from the victim and proceeded to hear the final recommendations from the parties.

In his final recommendations, the public prosecutor requested for the court to apply a fine against the defendant because the defendant admitted all of the facts stated in the charges of the public prosecutor.

The lawyer for the defendant requested for the court to apply an appropriate sentence because the defendant admitted all of the facts and had cooperated with the court. In addition, the defendant promised not to reoffend in the future.

After hearing final recommendations the court informed the parties that the case would immediately be decided.

Based on the evidence revealed during the trial, the court concluded that the actions of the defendant fulfilled the elements of the crime as set out in Article 145 of the Penal Code as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence as charged by the public prosecutor. Therefore, the court decided to sentence the defendant to a fine totaling US\$ 30.

This trial was led by judge João Ribeiro, the Public Prosecution Service was represented by Antonio Tavares, and the defendant was represented by public defender Calisto Tout.

2. Domestic Violence, Case No. 34/C.Ord/2012/TDO

On 20 November 2012 the Oecusse District Court conducted a hearing to read out its decision in a case of domestic violence which was registered as Case No. 34/C.Ord/2012/TDO.

This case involved the defendant Martinho Liub who allegedly committed the crime against his wife. This case allegedly occurred on 13 January 2012 in Oesilo Village, Pante-Makassar Sub-District, Oecusse District.

Based on the facts revealed during the trial, the court stated that on 13 January 2012 the victim went to pay her respects to a deceased parent in Dili however the victim did not tell the defendant before she left for Dili. Then on 20 February 2012 the victim returned from Dili and the defendant was waiting in front of the house and he immediately punched and kicked the victim causing her to suffer pain and swelling to her body.

The court found the aforementioned facts proven beyond reasonable doubt. Therefore the court found the defendant guilty of violating Article 45.1 of the Penal Code as well as Article 35 (b) of the Law Against Domestic Violence as charged.

After the court considered all of the mitigating and aggravating circumstances the court decided that the most appropriate punishment for the defendant was a fine. Therefore the court ordered the defendant to pay a fine of US \$30 to be paid in installments of US\$ 1 per day.

The hearing was presided over by single judge João Ribeiro, the Public Prosecution Service was represented by Antonio Tavares, and the defendant was represented by public defender Calisto Tout.

3. Domestic Violence, Case No. 32/C.Ord/2012/TDO

On 21 November 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 32/Pidana/2012/TDO. This case involved the defendant SR who allegedly committed the offence against the two victims ILR and PK. The incident allegedly occurred on 24 December 2011 in Cuna Village, Pante Makassar Sub-District, Oecusse District.

The hearing started with the reading out of the indictment by the public prosecutor. The indictment stated that on 24 December 2011 at 7pm the victims went to church and the defendant followed the victim from behind and said "*I told you don't go to church but you did anyway*". After that the defendant became angry and kicked ILR in the chest PK in the thigh causing them to suffer pain.

In relation to the aforementioned facts, the public prosecutor charged the defendant with Article 145 of the Penal Code on ordinary maltreatment as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant chose to remain silent (or to not make a statement). Then the court asked the victims to testify. They testified that the defendant kicked them because they went to church even though the defendant did not want them to.

Based on the facts revealed during the trial, the public prosecutor requested for the court to order the defendant to pay a fine, as he was supposed to be looking after the victims.

In his final recommendations the lawyer for the defendant requested for the court to hand down an appropriate punishment because the defendant had cooperated with the court and responded to the summons issued by the court even though he is residing in Dili.

After hearing the final recommendations of the parties the court decided to adjourn the trial until 05/12/2012 at 2pm.

The trial was led by single judge João Ribeiro, the Public Prosecution Service was represented by Antonio Tavares, and the defendant was represented by public defender Calisto Tout.

4. Crime of Domestic Violence, Case No.121/C.Ord/2011/TDO

On 22 November 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 121/C.Ord/2011/TDO. The defendant in this case Anastasio Soriano allegedly committed the offence against Blandina Molo (his wife). This case allegedly occurred on 15/8/2011 di Costa Sub-District, Pante Makassar, Oecusse.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment stated that on 15/8/2011 at 8am the victim gave US\$ 25 to the defendant to buy cement. Almost two hours later the victim asked if the cement had been purchased or not and the defendant answered that he knew what had to be done and the victim did not need to interfere. The victim objected to his comment and they argued and then the defendant took the victim inside and slapped her twice, punched her twice in the face and kicked her twice in the thigh. His actions caused the victim to suffer pain and swelling.

In relation to the aforementioned incident, the public prosecutor charged the defendant with Article 145 of the Penal Code as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted his guilt and regretted his actions. The victim testified that the defendant had committed the actions as stated in the indictment, however one day later they reconciled and were living together once again as husband and wife and have not quarreled since.

In his final recommendations the public prosecutor maintained his charges and requested for the court to order the defendant to pay a fine. The final recommendation of the prosecutor referred to the evidence revealed during the trial that the defendant had been found guilty of committing the crime of domestic violence.

In his final recommendations the lawyer for the defendant requested for the court to issue a fair punishment because the defendant had admitted his actions, and had expressed regret, and also in consideration of the fact that the parties had reconciled.

After hearing from both sides the court announced that the matter would immediately be decided.

In reference to the aforementioned facts the court decided that the defendant was guilty of violating Article 145 of the Penal Code as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence as charged.

Therefore, the court decided to order the defendant to pay a fine of US\$ 45 to be paid in installments of US\$ 1 per day.

The hearing was presided over by single judge João Ribeiro, the Public Prosecution Service was represented by Antonio Tavares, and the defendant was represented by public defender Calisto Tout.

5. Crime of Domestic Violence, Case No.168/C.Ord/2012/TDO

On 22 November 2012 the Oecusse District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 168/C.Ord/2012/TDO This case involved the defendant Lucia Tout who allegedly committed the offence against the victim Antonio Lafu. The aforementioned incident allegedly occurred on 30 June 2012 in Costa Village, Pante-Makassar Sub-District, Oecusse.

Based on the facts revealed during the trial, the court concluded that the defendant was guilty of committing the crime of maltreatment categorized as domestic violence in violation of Article 145.1 of the Penal Code as well as Article 35 (b) of the Law Against Domestic Violence.

In relation to the aforementioned facts, the court ordered the defendant to pay a fine of US \$ 45 to be paid in installments of US\$ 1 per day. The hearing to announce the decision was presided over by single judge João Ribeiro, the Public Prosecution Service was represented by Antonio Tavares, and the defendant was represented by public defender Calisto Tout.

6. Crime of Domestic Violence, Case No.83/C Ord/2012/TDO

On 23 November 2012 the Oecusse District Court conducted a hearing in a case involving violence that was registered as Case No. 83/C. Ord/2012/TDO

The defendant in this case Antonio Colo Soco allegedly committed the offence against the victim Linda Lafu. This incident allegedly occurred on 14 November 2011 in Lifau Village, Pante-Makassar Sub-District.

The hearing commenced with the reading out of the charges by the public prosecutor. In the indictment the public prosecutor stated that on 14 November 2011 at 9pm the defendant hit the victim twice on the neck and kicked her once in the stomach. This incident allegedly occurred because the victim came home at midnight.

Based on the aforementioned facts the public prosecutor charged the defendant with Article 145.1 of the Penal Code as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant used his right not to testify as provided for in Article 60 (c) of the Criminal Procedure Code.

However, the victim testified that on 14 November 2011 at approximately 9pm the defendant committed the aforementioned violence because the victim went to visit her family without first informing the defendant.

In his final recommendations the public prosecutor requested for the court to order the defendant to pay a fine because the defendant was guilty of committing the crime as charged.

The lawyer of the defendant requested for the court to hand down a fair sentence against the defendant, because for more than one year the defendant has not committed a crime against the victim or against someone else.

After hearing the final recommendations of the two parties, the court informed the two parties that the matter would be immediately decided.

In reference to the facts revealed during the trial, the court decided to order the defendant to pay a fine of US \$ 45 to be paid in installments of US\$ 1 per day.

The hearing was presided over by single judge João Ribeiro, the Public Prosecution Service was represented by Antonio Tavares, and the defendant was represented by public defender Calisto Tout.

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