



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

PRESS RELEASE

Dili, 19 December 2006

DEFENDANTS INVOLVED IN THE DEATH OF PNTL MEMBER TOMAS DA COSTA GIVEN SUSPENDED SENTENCE OF 1 MONTH, 15 DAYS JAIL

A panel of 4 judges on 12 December 2006 in the Baucau District Court sentenced the defendants to one and a half (1 ½) months jail with a suspended term of 6 months. The three defendants were members of the PNTL. The defendants were accused of committing assault against the victim Tomas da Costa on 9 September 2004 in the Lautem hospital. Tomas da Costa was also a member of PNTL who was stationed with the Lautem District Police. He died on the 3 February 2005.

Initially the maltreatment committed against the victim Tomas da Costa involved 5 defendants. However announcing the decision in a hearing on the 12 December 2006 in the Baucau District Court, the judges decided that only 3 of the 5 defendants brought to trial were guilty of being involved in the act of minor assault against the victim Tomas da Costa.

Therefore the panel of judges handed down a sentence of 1 month, 15 days against the defendants with a suspended term of 6 months. The defendants were found guilty of committing assault against the victim Tomas da Costa. The decision was rendered by the court pursuant to Article 352 (1) of the Penal Code. Pursuant to this article, the court was unable to find strong evidence during the trial to convict the defendants.

The judges announced during the hearing that the incident at the hospital had no connection with the death of the victim. During the trial the court established evidence that the victim's cause of death was an illness from which he suffered known as *hemorragia subdural craniana*.

In principle JSMP commends the actions of the prosecution unit in prosecuting members of the police force who were involved in a criminal act. JSMP also welcomes the decision issued by the panel of judges in this case. However, JSMP believes that the court's decision could only be considered fair by the defendants, but not so fair for the family of the victim who is no longer with them.

There are 2 concerns we would like to raise.

- JSMP believes that the PNTL is a state institution which is entrusted with protecting domestic security as well as helping to uphold the law and human

rights in Timor Leste. Therefore, in its capacity as a law enforcement agency who upholds human rights, the PNTL must be truly professional in the performance of its duties so as to prevent victims from experiencing further conflict or pain, such as that experienced in this case by the victim Tomas da Costa. JSMP believes that the actions of the defendants were completely illegal and violated the human rights of the victim. Therefore JSMP believes that the sentenced rendered is too lenient. The defendants should be subjected to disciplinary action by the PNTL due to their involvement in a criminal act.

- Also, the court should consider the widow and children of the victim by considering granting civil compensation to be paid by the defendants to the victims, which can be done pursuant to Article 72 (2)(b) of the Criminal Procedure Code, even though the victim did not submit a request. JSMP also recommends in cases such a this that the Prosecution Unit consider the circumstances of the victims and make a request to the court for compensation. JSMP recommends that in the future the court must deliberate on their decision so as not to leave the victim's family without any form of compensation.

FOR FURTHER INFORMATION PLEASE CONTACT:

Maria Vasconcelo

Acting Director, JSMP

Telephone: 332 3883

Email: vasconcelosmerry@yahoo.com