



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Press Release

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**PERPETRATOR OF ALLEGED MURDER OF VICTIM JOÃO BARRETO IS
ACQUITTED PURSUANT TO THE PRINCIPLE OF *IN DUBIO PRO REO***

At 14:55 on Thursday 5 July 2007, the Dili District Court conducted a hearing in a murder case involving the defendant Jose Lopes, who is a member of PNTL and an instructor at the Timor Leste Police Academy.

This hearing was scheduled for the announcement of the decision in the aforementioned murder case. The hearing was presided over by a panel of judges consisting of International Judge Ivo Nelson de Caires Rosa Batista, National Judge Guilhermino da Silva and National Judge Jacinta Correia. Previously the Prosecution Unit had been represented by International Prosecutor Baltazar Ramos, however he was unable to attend the hearing and authority had been delegated to National Prosecutor Angelina Saldanha. The defendant was represented by the International Public Defender Andre Fernandes.

After declaring the hearing open the presiding judge read out the decision consecutively in two languages, namely Portuguese and Tetum.

In the previous hearing of this case, which was conducted on 28 July 2007, the prosecution requested for the judges to hand down the heaviest sentence possible against the defendant Jose Lopes on the grounds that as a police officer he was responsible for upholding the law and should have no cause to commit the crime of murder which clearly constitutes a violation of the law as set out in 338 of the Indonesian Penal Code.

However, none of the testimony provided by witnesses in previous hearings could be accepted as evidence. The judges were not convinced and thus applied the principle of *IN DUBIO PRO REO* (when doubtful about testimony the judges must acquit the defendant from all charges and apply measures in favor of the defendant). Therefore on this basis the international judge presiding over this trial, namely judge Ivo Nelson de Cairres Rosa Batista, acquitted the defendant Jose Lopes from all charges.

JSMP has been monitoring developments in this case and admits that the testimony provided by the witnesses summoned by the public prosecutor was inconsistent and conflicting. Therefore the panel of judges doubted the testimony of the witnesses and determined that it did not constitute strong evidence. On these grounds the panel decided to acquit the defendant from all charges because the defendant Jose Lopes had merely acted in self defence when attacked by a group of approximately 15 individuals including the victim.

After hearing the judges' decision the family and friends of the victim immediately reacted and the mood in the court room became quite tense. The family and friends of the victim acted inappropriately and UNPOL repelled them by firing a single rubber bullet at the crowd who were voicing their dissatisfaction with the judges' decision to acquit the defendant of all charges.

JSMP recommends for all members of the community to respect the court's decision, especially the family and friends of victims involved in a particular case. Article 118.3 of the RDTL Constitution clearly states that "Court decisions shall be binding and shall prevail over the decisions of any other authority". Also, the applicable law permits the family of the victim to approach the public prosecutor to lodge an appeal to the Court of Appeal if they feel that a decision of a lower court was not made pursuant to the facts or the applicable law.

JSMP also recommends that when the prosecution unit is confronted with a similar case in the future it should not act in haste to submit an indictment to the court. Rather, the prosecution should collect sufficient material evidence and key witnesses to enable it to prove to a court that a defendant has in fact committed a crime. In this case the defendant was acquitted because of the weakness of the evidence which was the responsibility of the prosecution unit.

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