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Press Release
Oe-Cusse District Court
5 August 2015

Oe-Cusse District Court imposes an effective sentence of 6 months jail against defendant in case of domestic violence, as the defendant was still serving a suspended sentence

On 31 July 2015 the Oecusse District Court sentenced the defendant TL to 6 months in prison after he was found guilty of committing maltreatment against his wife on 30 April 2015 in Oecusse District.

The effective jail term was imposed pursuant to Article 73.2 of the Penal Code because the defendant committed the aforementioned crime whilst serving a suspended sentence. In addition, the defendant automatically violated Article 72 of the Penal Code, and has to serve 1 year in prison which was the sentenced previously imposed.

JSMP welcomes this effective penalty of 6 months in prison because the defendant did not show remorse for his actions that had been dealt with previously by the court.

JSMP hopes that this decision can have a deterrent effect against the defendant and others to avoid committing violence against members of their families, because families are supposed to be a safe place for each member of the family.

“This decision is a positive development, as the court has strengthened the application of provisions in the Penal Code and has correctly imposed the sentence that was previously handed down by the court. This is very importante to send a message to the community that any person who does not adhere to the decision of the courts must be held accountable,” said the Acting Executive Director of JSMP, Casimiro dos Santos.

JSMP also believes that this decision can be a reference for other courts and should remove doubt about sentencing defendants when there is a need to impose an effective penalty of imprisonment against a defendant to ensure justice for a victim and to prevent repetition of the crime in the future.

Article 72 of the Penal Code states that:

“If, during the period that the prison sentence is suspended, the convict fails to perform the duties imposed or is tried and convicted of another crime, the court may, taking circumstances into account, amend the initially established suspended execution, alter the duties imposed or solemnly admonish the convict, according to circumstances of the case”.

Furthermore, Article 73 (2) of the Penal Code states that:

“Suspension shall always be revoked if, during its period of duration, the convict commits a crime of intent for which the same is punishable with an effective prison sentence”.

In this case, the public prosecutor alleged that on 30 April 2015 at approximately 08:30am, the defendant choked the victim, slapped her left and right cheeks twice and punched her twice on the shoulder. The victim felt pain so she took a piece of wood and struck the defendant once on the back. However, the defendant responded and kicked the victim on her side.

This case allegedly occurred because the victim wanted to find out if the defendant was planning to marry another woman. However, the defendant did not respond so the victim tore the defendant’s shirt and trousers when the defendant was getting ready to go to work.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code as well as Articles 35 of the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts listed in the indictment of the Public Prosecutor and testified that he regretted his actions. The defendant also testified that they have reconciled and they have 5 children.

In his final recommendations, the public prosecutor requested for the court to impose an effective term of imprisonment against the defendant because the defendant repeated his actions. The public prosecutor believed that an effective term of imprisonment was a way to prevent the defendant and others from committing such acts, and to get them to avoid domestic violence.

The public defender requested for the court to consider that the defendant committed the aforementioned acts because the defendant was acting in legitimate self defence when the victim tore his shirt and trousers. However, if the court had a different opinion, then he requested for the court to administer justice in accordance with the actions of the defendant.

Previously, in April and May 2014, the Oecusse District Court imposed two separate sentences of 6 months in prison and 1 year in prison in two separate cases involving domestic violence. More detailed information about these two cases is available on the JSMP website: www.jsmp.tl in Press Releases from April and May 2014.

The aforementioned hearing was presided over by judge João Ribeiro, the Public Prosecution Service was represented by Ambrosio Rangel Freitas and the defendant was represented by Afonso Fatima Gomes. The case was registered with the court as Case No. 134/kcrime/2015/TDO.

This press release is made possible by the generous support of the American people through the United State Agency for International Development (USAID) under the terms of its Cooperative Agreement Number AID-486-A-13-00007 for the Ba Distrito program in Timor- Leste, implemented by the Lead Agency

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