



Case Summary
Oecusse District Court
January 2015

Summary of the trial process at the Oecusse District Court 2015

Introduction

On 16 January 2015, the court returned to its normal trial activities after enjoying an annual recess that started on 15 December 2014. Between 16 -31 January 2015, JSMP observed 5 of the 10 cases heard at the Oecusse District Court.

Of the five cases observed by JSMP, three involved simple offences against physical integrity characterized as domestic violence, one involved driving without a license and one involved simple offences against physical integrity.

Four cases were decided by the court, and one case resulted in the defendant receiving parole as he had already served half of the sentence handed down by the court by the time the court reviewed this matter.

The information below outlines the cases observed:

1. Crime of simple offences against physical integrity characterized as domestic violence - Case No.253/kcrime/2014/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio R. Freitas
Public Defender : Afonso Gomes Fatima
Conclusion : Ordered to pay a fine of US\$60.

On 19 January 2015, the Oecusse District Court conducted a hearing in a case of simple offences against physical integrity, committed by the defendant DP against MdC (her husband). This case occurred on 4 October 2014 in Oecusse District.

The public prosecutor alleged that on 4 October 2014, at approximately 2pm, the defendant struck the victim once on the nose. This occurred when the defendant asked for US\$100 to be given to the defendant's younger sibling for customary law, but the victim said that he didn't have that much money, just US\$50.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial the defendant admitted committing these acts against the victim and expressed regret.

In his final recommendations, the public prosecutor requested the court to sentence the defendant to 3 months in prison, to be suspended for 1 year, while the public defender requested the court to consider the aggravating and mitigating circumstances of the defendant.

After hearing the recommendations of the prosecution and the public defender, the court concluded this matter and ordered the defendant to pay a fine of US\$60 in daily installments of US\$1 for 60 days. The court also stipulated an alternative punishment of 40 days jail if the defendant did not pay this fine.

2. Driving without a license -Case No.84/kcrime/PCO/2011/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Ambrosio R. Freitas
Public Defender	: Afonso Fatima Gomes
Conclusion	: Parole

On 20 January 2015, the Oecusse District Court conducted a hearing to review a case involving the convicted person Bendito dos Santos who served 6 months of a 1 year prison sentence issued by the court for driving without a license.

The court granted conditional release to the defendant because he had already served 6 months, or half of his 1 year sentence, pursuant to Article 331 of the Criminal Procedure Code on conditional release.

Previously, on 24 April 2012, the court sentenced the defendant for driving without a license to 1 year in prison because he did not heed the summons issued by the court.

3. Crime of simple offences against physical integrity characterized as domestic violence – Case No.252/crime/2014/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Ambrosio R. Freitas
Public Defender	: Calisto Tout
Conclusion	: Sentenced to 6 months in prison, suspended for 1 year and 6 months.

On 27 January 2015 the Oecusse District Court conducted a hearing in a case of simple offences against physical integrity committed by the defendant DTO against MdFE (his wife). This case occurred in August 2014 in Oecusse District.

The public prosecutor alleged that in August 2014, at 8am, the victim asked the defendant for some timber and when questioned why she needed timber, the victim responded “if you have sold it, tell me so I know about it”.

After his response, the victim approached the defendant to use the phone to inform her parents, but she was unable to do so because the defendant stood up and struck her on the back of the neck, causing her to lose consciousness and fall to the ground. When he saw the victim fall down, the defendant felt afraid and carried her to the clinic for treatment.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

In his final recommendations the public prosecutor requested the court to sentence the defendant to 9 months in prison, to be suspended for 2 years. The public defender requested the court to uphold the interests of justice for the defendant.

After hearing the final recommendations of the parties, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year and 6 months.

4. Crime of simple offences against physical integrity characterized as domestic violence - Case No.249/kcrime/2014/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Ambrosio R. Freitas
Public Defender	: Calisto Tout
Conclusion	: Sentenced to 9 months in prison, suspended for 1 year and 6 months.

On 29 January 2015 the Oecusse District Court conducted a hearing in a case of simple offences against physical integrity involving the defendant FMS who committed the offence against his wife JS. This case occurred on 4 August 2014 in Oecusse District.

The public prosecutor alleged that on 4 August 2014, at 1pm, the defendant slapped the victim across her right cheek. After three days, the defendant again slapped the right cheek of the victim. This occurred because when the defendant was about to eat, the defendant saw that there was no water, so the defendant took a jerry can and went to fetch some water. After fetching the water, the defendant asked the victim “why didn’t you fetch water today?” and the victim responded that she had gone to collect water but the pipe was locked. As a result, the defendant became angry and committed this crime against the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

During the hearing, the defendant admitted his actions and testified that, at the time he had returned from work (as a tradesman) in Nitibe and had not yet rested when he saw that there was no water, so he took the jerry can to fetch some. As a result, the defendant became angry and slapped the victim. The victim corroborated the facts set out in the indictment of the public prosecutor.

In his final recommendations, the public prosecutor requested the court to sentence the defendant to 1 year 6 months in prison, and the public defender requested a fair penalty in proportion to the crime committed by the defendant.

After hearing the final recommendations of the parties, the court immediately concluded the matter and sentenced the defendant to 9 months in prison, suspended for 1 year and 6 months. The court also ordered the defendant to pay a fine of US\$20 because previously, on 19 January 2015, the defendant had, without informing the court, failed to attend a hearing.

5. Crime of simple offences against physical integrity -Case No.193/kcrime/2014/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio R. Freitas
Public Defender : Calisto Tout
Conclusion : 6 defendants acquitted and 2 defendants sentenced to 1 year and 6 months in prison.

On 19 January 2015 the Oecusse District Court conducted a hearing in a case of simple offences against physical integrity involving 8 defendants. The defendants were Domingos da Costa, Lorencos Tael Silla, Januario Lelan B, Agostinho Quefi, João Lelan, Antonio Bakun, Januario Lelan A, Jeferino da Cunha, who committed the offences against the victims Luiza Ulan, Batista Coe Obe and Agostino Coe Obe (the victims were siblings). This case occurred on 1 January 2011, in Lela-ufe Village, Nitibe Sub-District.

The public prosecutor alleged that on 1 January 2011, at 3pm, the defendants were drunk, and they punched and kicked the victims Batista Coe Obe and Agostino Coe Obe once each in the body and head. The defendant Domingos da Costa punched the victim Luiza Ulan in the head and caused an injury and bleeding. This incident occurred due to an ongoing problem between these two groups.

The public prosecutor charged the defendants with violating Article 145 of the Penal Code regarding simple offences against physical integrity.

During the trial, the defendants Domingos da Costa, Lorencos Tael Silla, Agostinho Quefi, João Lelan, Antonio Bakun and Januario Lelan A were present and they all admitted their actions and expressed regret.

The defendants testified that they had already reconciled with the victims. However, the defendants Januario Lelan B and Jeferino da Cunha did not comply with the summons issued by the court and stated to the other defendants that they wanted the police to meet them.

In his final recommendations, the public prosecutor requested the court to acquit the six defendants from his charges and recommended that the other two defendants who failed to attend should each be given 2 years in prison.

The public defender agreed with the recommendation of the prosecutor in relation to the first 6 defendants, however he asked that the court uphold the interests of justice for the other two defendants.

After evaluating these facts, the court concluded this matter and acquitted the defendants Domingos da Costa, Lorencos Tael Silla, Agostinho Quefi, João Lelan, Antonio Bakun and Januario Lelan A. The court sentenced the defendants Januario Lelan B and Jeferino da Cunha to 1 year and 6 months in prison.

“This case summary 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 Counterpart International and its partners. The contents and opinions expressed herein are the responsibility of JSMP and do not necessarily reflect the views of USAID or the United States Government.”

For more information, please contact:

Luis de Oliveira Sampaio

Exekutive Director JSMP

Diresaun e-mail: luis@jsmp.minihub.org