



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Case Summary
The Oecusse District Court
March 2017

Statement: The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court.

JSMP strongly condemns all forms of violence, especially against women and vulnerable persons. JSMP maintains that there is no justification for violence against women.

A. Summary of the trial process at the Oecusse District Court

1. Total cases monitored by JSMP: 16

Article	Type of case	Number of cases
Article 145 of the Penal Code (PC) and Article 35 of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence	8
Article 145 of the PC	Crime of simple offences against physical integrity	5
Article 207 of the PC	Crime of driving without a license	1
Article 251 of the PC	Crime of larceny	1
Article 316 of the PC	Crime of smuggling	1
Total	16	16

2. Total number of decisions monitored by JSMP: 15

Type of decision	Number of cases
Suspended prison sentence – (Article 68 of the PC)	10

Withdrawal of complaint	2
Fine (Article 67 of the PC)	1
Penalty of admonishment	1
Acquitted	1
Total	15

3. Total ongoing cases based on JSMP monitoring: 1

B. Short description of proceedings in these cases

1. Crime of simple offences against physical integrity

Case No. : 0026/16.OEPMK
Composition of the court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Public Defender : Marcelino Marques Coro
Type of Penalty : 6 months in prison, suspended for 1 year

On 6 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant FA who allegedly committed the offence against the victim BU in Costa Village, Pante-Makasar Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 30 June 2016, at approximately 5pm, the defendant punched the victim 3 times in the head and pulled the victim's hair. This incident occurred when the victim asked for 50 cents from the defendant, because previously the defendant booked up some items from the victim's kiosk. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity.

Presentation of evidence

During the trial the witness RA, who is the younger sibling of the defendant, chose to remain silent and two other witnesses FS and BE, who are the sisters-in-law of the defendant, also chose to remain silent.

After considering the contradictions between the testimony of the defendant and the victim, pursuant to Article 140 of the Penal Code, the Court decided to cross-examine the defendant and the victim.

Final recommendations

The prosecutor stated that the defendant's actions fulfilled the crime of simple offences against physical integrity based on the photographs and medial report from the hospital. Therefore he requested for the court to convict the defendant in accordance with Article 145 of the Penal Code so that in the future the defendant will not repeat such acts against the victim or other person.

Meanwhile the public defender stated that during the examination of evidence the testimony given by the defendant and the victim had raised doubt. For this reason he requested for the court to acquit the defendant, however if the court decides otherwise then the public defender asked for the court to impose a penalty befitting the crime.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

2. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0029/16.OEOSL
Composition of the court : Single Judge
Judge : João Ribeiro
Prosecutor : Ricardo Leite Godinho
Public Defender : Calisto Tout
Type of Penalty : 1 year in prison, suspended for 2 years

On 13 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant CB who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 16 October 2016 at approximately at 7am the defendant punched the victim twice above the left eye, kicked the victim twice in the thigh and kicked the victim once on her side and caused the victim to suffer pain. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Article 2, 3 and 35(b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions, was a first time offender and has reconciled with victim and promised not to commit any crimes against the victim or other person in the future.

Because the defendant confessed all of the facts set out in the indictment the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service and the public defender agreed.

Final recommendations

The prosecutor stated that the defendant was found guilty of committing the crime against his wife and the defendant and had strong intent to hit the victim. The defendant is supposed to protect the victim because she is his wife and she is powerless to react against the defendant. The prosecutor also stated that domestic violence is prevalent in Oecusse in comparison with other municipalities. For this reason he requested for the court to impose a apply prison sentence of 1 year, suspended for 1 year.

The public defender stated that the defendant confessed the facts set out in the indictment, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 month in prison, suspended for 2 years.

3. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0053/16.OEPMK
Composition of the court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Calisto Tout
Type of Penalty	: 2 years in prison, suspended for 2 years

On 13 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EC who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 12 August 2016 at approximately 10am the defendant slapped the victim three times on her left cheek, grabbed the victim and pushed her into some banana trees which caused the victim to suffer pain.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3 (a) and 35(b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that he only slapped the victim twice on her left cheek and not three times. The defendant also stated that he regretted his actions and was a first time offender and he has separated from the victim.

When the Court sought confirmation from the victim about the facts, the victim stated that the defendant slapped her twice only. In addition the victim stated that she no longer wanted to live

with the defendant, because she was afraid that the defendant would repeat his actions in the future.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim, and that domestic violence is prevalent in Oecusse in comparison with other municipalities. For this reason he requested for the court to impose a prison sentence of 1 year and 6 months, suspended for 2 years.

The public defender stated that the defendant confessed to what he had done and this was confirmed by the victim. The defendant stated that after the incident the victim decided on her own to return to her parents and no longer wanted to live together with the defendant, even though the defendant said that he still loved the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime against the victim and sentenced the defendant to 2 years in prison, suspended for 2 years.

4. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0013/16.OEPSB
Composition of the court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Calisto Tout
Type of Penalty	: 1 year in prison, suspended for 2 years

On 13 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant IV who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 1 November 2016, at approximately 6pm, the defendant kicked the victim twice on her right thigh and caused the victim to fall to the ground. The defendant then grabbed some thin rope used to hang out clothes and twice struck the victim on her back, pulled the victim's hair and tossed her on the ground, which caused the victim to suffer redness, swelling and pain to her thigh and swelling to her back.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3 (a) and 35(b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment. He is a first time offender and he regretted his actions. The defendant also stated that he has reconciled with

the victim and promised that in the future he will not repeat such crimes against the victim or other person.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service. The defence also agreed with this request.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim, and that domestic violence is prevalent in Oecusse in comparison with other municipalities, and therefore he asked the court to impose a penalty of 1 year in prison, suspended for 1 year.

The public defender stated that the defendant confessed the facts set out in the indictment, and he promised that in the future he would not commit any crimes against the victim. In addition, the defendant demonstrated his regret and the defendant does not earn a set amount of money every month to provide for the family. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts, the court found the defendant guilty of committing the crimes against the victim. Based on the aforementioned facts, the court sentenced the defendant to 1 year in prison, suspended for 2 years.

5. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0011/16.OEPSB
Composition of the court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Marcelino Coro
Type of Penalty	: Prison sentence of 1 year and six months, suspended for 2 years

On 14 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant SQ who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 4 September 2016 at approximately 12pm the defendant slapped the victim once on her left ear and struck her once with a sandal on her right earlobe and pulled her to the ground by her hair.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3 (a) and 35(b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that the defendant slapped the victim once on the ear and struck her once with a sandal on her ear, but he did not pull the victim to the ground by her hair. The defendant also stated that he regretted his actions and this was the first time he committed a crime against the victim. However, the defendant added that he has not reconciled with the victim because after the incident the victim went to live with her parents.

When the court sought confirmation with the victim, she maintained the facts in the indictment and she also stated that she did not want to stay and live with the defendant. The victim added that the defendant saw that the rice was running out and left the house and only came back a week later. For this reason the victim decided to live with her parents to provide for her two children.

Final recommendations

The prosecutor stated that the defendant was found guilty of committing the crime against the victim and the defendant had strong intent to hit the victim. The defendant is supposed to protect the victim because she is his wife and she is powerless to react against the defendant. The prosecutor added that the defendant put a lot of pressure on the victim and put the victim's children at great risk because when the defendant saw the rice running out he left the house and did not return for a week. For this reason he requested for the court to impose a apply prison sentence of 1 year, suspended for 1 year.

The defence stated that the defendant confessed to what he had done and regretted his actions, and this was the first time he committed an offence against the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year and 6 months in prison, suspended for 2 years and ordered the defendant to pay court costs of US\$ 30.

6. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0177/16.OESIC
Composition of the court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Marcelino Marques Coro
Type of Penalty	: Penalty of admonishment

On 14 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant NdC who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 23 September 2016, at approximately 4pm, the defendant grabbed a rice cooker to throw at the victim but did not manage to do so because the victim went outside. Then the defendant followed the victim outside and kicked the victim once on the back and took a piece of wood and struck the victim once on her right side and caused the victim to suffer pain.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3 (a) and 35 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant admitted all of the facts in the indictment, and the defendant also stated that he regretted his actions and they resolved the problem in accordance with East Timorese culture. The defendant gave one bottle of alcohol and one piece of woven cloth (*tais*) to the victim's parents to acknowledge the victim as his spouse. The defendant earns \$185 per month and has three children.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service and the public defender agreed.

Final recommendations

The prosecutor stated that the defendant was found guilty of committing the crime against his wife. Therefore he requested for the court to issue an admonishment against the defendant. The public defender stated that the defendant regretted his actions and they managed to resolve the problem in accordance with East Timorese culture. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts the court found the defendant guilty of committing the crimes against the victim. Based on this evidence, the court admonished the defendant and ordered him to pay court costs of \$30.

7. Crime of simple offences against physical integrity

Case No.	: 0042/16.OEPMK
Composition of the court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Marcelino Marques Coro
Type of Penalty	: 2 years in prison, suspended for 2 years

On 17 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant DN who allegedly committed the offence against the victim FS in Lalisuk Village, Pante-Makasar Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 22 September 2016, at approximately 5pm, the defendant punched the victim twice in the head, but missed because the victim moved backwards and fell into a small pothole and the victim injured her left elbow. Also, the defendant pushed the victim to the ground and caused her to suffer pain to her side. The incident occurred because the defendant was drunk and the victim pointed her finger at the defendant because they were arguing. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity.

Presentation of evidence

During the trial the defendant stated that the incident did occur but he denied punching or pushing the victim, because the two of them both fell to the ground. The defendant also stated that during the incident the defendant was heavily drunk. The victim maintained the facts set out in the indictment of the public prosecutor.

The witness João Corbafo, a neighbour, testified that during the incident the witness tried to stop the defendant and the victim and the witness did not see the defendant punch the victim, the witness only saw the defendant and the victim fall to the ground. Then the witness grabbed the defendant and took the defendant home.

The witness Francisco Colo, who is also a neighbour, testified that when the incident occurred the witness was standing at his house approximately 100 meters away and he saw the incident. He added that the defendant and the victim were pushing each other and then the defendant went home and the witness only then went to the scene.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the photos and medical report from the hospital. Therefore he requested for the court to convict the defendant in accordance with Article 145 of the Penal Code so that in the future the defendant will not repeat such acts against the victim or other person.

The defendant also stated that during the incident the defendant was heavily drunk and the defendant also stated that both he and the victim fell to the ground. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 2 months in prison, suspended for 2 years.

8. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0184/16.OESIC
Composition of the court : Single Judge
Judge : João Ribeiro

Prosecutor : Mateus Nessi
Public Defender : Calisto Tout
Type of Penalty : 1 year in prison, suspended for 1 year

On 23 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CBA who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 6 October 2016, at approximately 9pm, the defendant punched the victim once on the forehead and stomped on the victim's right foot, and caused swelling and pain to the victim's forehead and twisted the victim's ankle. A medical report was included in the case file from the Oecusse Pradet and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3 (a) and 35(b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that when they were fighting over the keys to the kiosk the defendant stood on the defendant's foot because the victim was holding on to the collar of the defendant's shirt. Therefore the defendant stomped on the victim's right foot and the defendant pulled his right hand back and it struck the victim on the forehead. The defendant also stated that he regretted his actions and this was the first time he committed an offence against the victim and promised not to repeat such crimes against the victim or other person in the future.

The victim maintained the facts set out in the indictment and the victim also stated that after the incident she immediately reconciled with the defendant.

The witness JM, who is a neighbour, testified that he only knew that the defendant and the victim had argued, but he didn't know if the defendant punched or stomped on the victim.

Final recommendations

The prosecutor stated that the defendant was found guilty of committing the crime against his wife and the defendant had a strong intention of hitting and stomping on the victim's foot. The prosecutor said that the defendant is supposed to protect the victim as a woman who is powerless to react against the defendant. The prosecutor also stated that domestic violence is prevalent in Oecusse in comparison with other municipalities. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

Based on the examination of evidence during the trial, the public defender requested for the court to impose an appropriate punishment against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year.

9. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0192/16.OESIC
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Public Defender : Marcelino Marques Coro
Type of Penalty : 1 year in prison, suspended for 1 year

On 23 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ESC who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 13 October 2016 at approximately 2.30pm, the defendant punched the victim once in the head, punched the victim once in the back and kicked the victim once on her side and caused the victim to suffer pain. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3 (a) and 35 (b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions, was a first time offender and has reconciled with victim. The defendant stated that he had no income because he works as a farmer and they have two children.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service and the public defender agreed.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim and the defendant knew that hitting someone would cause pain. The defendant is supposed to protect the victim because she is his wife and she is powerless to react against the defendant. The prosecutor also stated that domestic violence is prevalent in Oecusse in comparison with other municipalities. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and has reconciled with the victim. Therefore he requested for the court to impose a fair penalty against the defendant befitting the crime.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year.

10. Crime of driving without a license

Case Number	: 0020/16.OESTR
Composition of the Court	: Single Judge
Judge	: João Ribeiro
Prosecutor	: Mateus Nessi
Public Defender	: Calisto Tout
Type of Penalty	: Fine of \$45 for each the defendant

On 23 March 2017 the Oecusse District Court announced its sentence for the crime of driving without a license involving the defendants Celistino Ce'e and Joaquim Neno against the State in Naimeco Village, Pante-Makassar Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 15 August 2016, at approximately 11:00am, the two defendants were riding a motorcycle on a public road and had a collision. When the police conducted an inspection they found that the defendants had no licence, and therefore the police immediately confiscated the defendants' motorcycle.

The public prosecutor alleged that the defendants violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

Presentation of evidence

During the trial the defendants confessed all of the facts set out in the indictment, the defendants regretted their actions.

Because the defendants confessed all of the facts, the court decided not to hear testimony from the witness (PNTL officer) who confiscated the defendants' motorcycle.

Final recommendations

The prosecutor requested for the court to convict the two defendants pursuant to the penalty set out in Article 207 of the Penal Code, because these crimes occur in Oecusse every week.

The public defender requested for the court to apply an appropriate punishment based on the each defendant's culpability, because during the examination of evidence the defendants admitted all of the facts.

Decision

After evaluating all of the facts, the court concluded this matter and ordered the defendants to pay a fine of US\$ 45 to be paid in daily instalments of US\$ 0.50 for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendants do not pay this fine.

11. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0026/16.OEOSL
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Public Defender : Calisto Tout
Type of Penalty : 9 months imprisonment, suspended for 1 year

On 23 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DS who allegedly committed the offence against his wife in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 14 October 2016, at approximately 1pm, the defendant slapped the victim once across the face and slapped the victim once on her right cheek. These acts caused the victim to suffer pain to her face and cheek. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3 (a) and 35 (b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions, and this was the first time he committed a crime against the victim. After the incident the defendant immediately apologised to the victim. The defendant works as a security guard and earns \$125 a month. The defendant has 6 children and promised in the future he will not repeat such acts against the victim or other person.

Because the defendant confessed all of the facts set out in the indictment, the public prosecutor requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service and the public defender agreed.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim, and that domestic violence is prevalent in Oecusse in comparison with other municipalities. Therefore he requested for the court to convict the defendant in accordance with the provisions of Article 145 of the Penal Code.

The public defender stated that the defendant confessed to all of the facts set out in the indictment, promised that in the future he would not commit any crimes against the victim, regretted his actions and reconciled with the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 9 months in prison, suspended for 1 year and ordered the defendant to pay court costs of US\$ 20.

12. Crime of simple offences against physical integrity

Case Number : 0046/16.OESIC
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Public Defender : Calisto Tout
Type of Penalty : Withdrawal of complaint

On 24 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant Agostinho Abi who allegedly committed the offence against the victim Michael Teme in Naimeco Village, Pante-Makasar Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 12 September 2016, at 3pm, the defendant punched the victim twice on her right cheek and kicked the victim once on her left thigh causing the victim to suffer pain.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation, the defendant apologised and wanted to redress the victim's suffering by paying US\$170. Therefore the victim accepted and requested for the court to prepare an agreement so that in the future the defendant does not repeat the same act and also asked the Court to withdraw the complaint against the defendant.

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the Court decided to validate the settlement.

13. Crime of simple offences against physical integrity

Case Number : 0060/16.OEPMK
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Ricardo Leite Godinho
Public Defender : Calisto Tout
Type of Penalty : Withdrawal of complaint

On 29 March 2017 the Oecusse District Court presided over a trial to attempt conciliation in a case of simple offences against physical integrity involving the defendant JQ who allegedly committed the offence against his sister in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 20 November 2016, at 3pm, the defendant slapped the victim once on her right cheek and slapped the victim once on the back of her neck causing the victim to suffer pain. This case occurred because the defendant invited the victim to attend a cultural ceremony but the victim didn't want to.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During this attempted conciliation, the defendant and the victim presented an amicable agreement to the Court, because previously they resolved this case according to East Timorese culture, and the defendant gave a traditional cloth (*tais*), \$10 and 1 bottle of alcohol. Therefore the victim asked the Court to withdraw the complaint against the defendant.

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case, the court decided to validate the settlement.

14. Crime of simple offences against physical integrity

Case No. : 0031/16.OEOSL
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Ricardo Leite Godinho
Public Defender : Calisto Tout

Type of Penalty : The defendant AL was sentenced to 1 year and six months in prison, suspended for 2 years. The defendant AT was sentenced to 9 months in prison, suspended for 1 year.

On 29 March 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendants AL and AT who allegedly committed the offence against the victim DT in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 2 November 2016, at 10am, the defendant AT grabbed the victim's by both her arms and held the victim tightly. The defendant AL approached the victim to hold his head and twisted the victim's head back and forth and punched the victim once in the head. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendants violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant AL to 1 year and 6 months in prison, suspended for 2 years, and sentenced the defendant AT to 9 months in prison, suspended for 1 year.

15. Crime of larceny

Case No. : 0035/16.OEPSB
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Ricardo Leite Godinho
Public Defender : Calisto Tout
Type of Penalty : Acquitted

On 31 March 2017 the Oecusse District Court announced its decision in a case of larceny involving the defendant EB who allegedly committed the offence against the victim JB in Bobometo Village, Oesilo Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 31 October 2016 the victim suspected that the defendant stole the victim's goat, because when the was looking for the goat the witness AT told the victim that the witness saw the defendant digging a hole in the plantation near the fence of the witness and the defendant had put some intestines near the hole that he was digging.

The public prosecutor alleged that the defendant violated Article 251 of the Penal Code on larceny with that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendant denied all of the facts in the indictment, the defendant also stated that he did not see the hole in the plantation and the defendant also did not know about the missing goat belonging to the victim.

When the Court sought confirmation with the victim about the facts in the indictment, the victim maintained the facts in the indictment, and the victim also stated that after hearing information from the witnesses, the victim and the defendant he immediately visited the place where the defendant was digging the hole and found the goat's intestines and fat including some things used to cut up meat, but the defendant continued to deny that he stole the victim's goat. The victim also stated that if the goat was sold at the market it would be worth \$50.

The witness AT, a neighbour, testified that it was true that the defendant dug the hole because when the witness was heading to the plantation he saw the defendant digging a hole, and when the witness asked the defendant, the defendant answered that he was "fixing the fence," but the witness saw that some meat was near the hole.

On 17 March 2017 the Court decided not to proceed with the inspection of the scene of the crime, which would involve the victim, witness, defendant, community and traditional leaders in the aforementioned location.

Final recommendations

In his final recommendation the prosecutor stated that the defendant was guilty of committing the crime of larceny, because the victim and the witness went to the place where the defendant had dug a hole and found the goat intestines and a piece of wood that the defendant had used to put in the ground to help cut up the meat. Therefore he requested for the court to impose a fine of US\$60 to be paid in instalments of 0.50 cents per day for 120 days.

The public defender stated that the defendant did not know about the victim's missing goat and the hole where the intestines had been placed, therefore he requested for the court to acquit the defendant.

Decision

After evaluating the facts produced during trial and the inspection of the scene of the crime, the Court concluded that the defendant was not guilty of committing the crime of larceny against the victim, and therefore the Court acquitted the defendant.

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