



Case Summary
Baucau District Court
Edition: February 2017

Affirmation: 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. This information does not reflect the opinions of JSMP as an institution.

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

1. Total number of cases monitored by JSMP: 24

Article	Type of case	Number of cases
Article 145 of the Penal Code (PC) and Article 35 (b) of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence	13
Article 154 of the PC	Mistreatment of a spouse	1
Article 259 of the PC	Aggravated property damage	1
Article 145 of the PC	Simple offences against physical integrity	1
Article 258 of the PC	Property damage	2
Articles 258 & 145 (PC)	Property damage and simple offences against physical integrity	1

Article 260 of the PC	Property damage with violence	1
Articles 157 & 145 (PC)	Threats and simple offences against physical integrity	2
Articles 172 & 173 (PC)	Aggravated rape	1
Article 217 of the PC	Crime against flora or fauna	1
Total		24

2. Total number of cases monitored by JSMP: 14

Type of decision	Number of cases
Suspension of execution of a prison sentence (Article 68 of the PC)	5
Fine pursuant to Article 67 of the Penal Code	6
Withdrawal of complaint	1
Suspension of execution of a prison sentence (Article 68 of the PC) and rules of conduct (Article 70 (g))	1
Acquitted	1
Total	14

3. Total cases adjourned based on JSMP monitoring: 3

Reason for adjournment	Number of cases
Judge ill	2
Witness not present	1
Total	3

4. Total ongoing cases based on JSMP monitoring: 7

B. Descriptive summary of the decision handed down in cases that were monitored by JSMP;

1. Property damage and simple offences against physical integrity

Case No. : 0012/16. MNLCL
Composition of the court : Single Judge
Judge : Afonso Carmona
Prosecutor : Bemvinda do Rosario
Public Defender : Grigorio de Lima
Type of Penalty : Fine

On 1 February 2017 the Baucau District Court via the mobile court in Manatuto District announced its decision in a case of property damage and simple offence against physical integrity involving the defendants MCC, FVS, NdC and CdC who allegedly committed the offence against the victim RdS in Lakumesak Village, Laklo Sub-District, Manatuto District.

Charges of the Prosecutor

The public prosecutor alleged that on 16 July 2016, at 7pm, the defendants summoned the victim to the defendant's home to resolve a land dispute, whereby the younger sibling of the defendant MCC sold the land to the victim. When the victim arrived at the location the defendants were waiting for him. The victim told the defendants that he had purchased the land from Mr. Vicente, in exchange for one buffalo. The defendants did not accept this and argued with the victim so the victim fled to his house, then the defendants followed the victim and the defendant NdC slapped him twice on the cheek, and the defendant FVS punched him once in the stomach, and the defendant MCC punched him once in the neck and smashed two windows, and the defendant CdC also used a piece of wood to smash two windows. These acts harmed the victim and caused damages of US\$5.00.

The public prosecutor alleged that the defendants violated Article 258 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine as well as Article 258 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years or a fine.

Presentation of evidence

During the trial the defendants confessed all of the facts set out in the indictment, the defendants were first time offenders and regretted their actions. The victim corroborated the facts set out in the indictment.

Final recommendations

In his final recommendations the prosecutor referred to the evidence presented during the trial and asked for the court to impose a single penalty against the defendants.

The public defender also stated that the defendants were first time offenders, regretted their actions, and therefore he asked for the court to impose a fair penalty against the defendants.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and ordered the defendants FVS and NdC to pay a fine of US\$ 45.00 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. In relation to the defendant CdC the court ordered him to pay a fine of US\$ 30.00 to be paid in daily instalments of US\$ 0.50 for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

2. Property damage

Case No. : 0024/15. PDBAU
Composition of the court : Single Judge
Judge : Hugo da Cruz Pui
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Antonio Fernandes
Type of Penalty : 3 months in prison, suspended for 1 year

On 1 February 2017 the Baucau District Court announced its sentence in a case of property damage involving the defendant AdS and the victim RdS, that allegedly occurred in Samalari Village, Baguia Sub-District, Baucau District.

Charges of the Prosecutor

The prosecutor alleged that on an unspecified day and month at some time during 2015, at 2pm, the defendant put water on the victim's rice field and damaged three sections. Each section could produce 6 tins of rice valued at US\$6.00, so the total damage was US\$36.00

The prosecutor alleged that the defendant violated Article 258 of the Penal Code on property damage that carries a maximum penalty of 3 years or a fine.

Presentation of evidence

During the trial the defendant denied all of the facts set out in the indictment, the defendant stated that he did not put water on the victim's rice field because they were waiting for rainfall to farm rice, and they did not use any water source or river water. The defendant also stated that prior to the incident they had a problem because the defendant worked the victim's rice field and when it was harvested they shared it equally. The defendant was a first time offender. The victim maintained the facts in the indictment, and the victim also stated that because the rice field was near the victim's house and the victim saw the defendant put water on the victim's rice field.

Final recommendations

In his final recommendations the prosecutor stated that even though the defendant denied all of the facts in the indictment, but the victim maintained the facts in the indictment and the victim also stated that he saw the defendant put the water on and damage the rice. For this reason he requested for the court to impose a impose prison sentence of 6 months, suspended for 1 year.

The public defender stated that based on the defendant's statement there wasn't sufficient evidence that the defendant committed this crime, therefore he requested for the court to acquit the defendant from the charges.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

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

Case No.	: 0009/16. VQSIC
Composition of the court	: Single Judge
Judge	: Ercilia de Jesus
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Sidonio M. Sarmiento
Type of Penalty	: 3 months in prison, suspended for 1 year

On 6 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AF who allegedly committed the offence against his wife in Viqueque District.

Charges of the Prosecutor

The public prosecutor alleged that on 27 September 2016 at 4pm the defendant verbally abused the victim and struck the victim once on the back with the sheath of a machete. The victim received treatment at the Uatukarbau Health Centre.

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 as well as Article 2, 3, 35 and 36 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 after the incident on the next day he immediately reconciled with the victim. The defendant was a first time offender and regretted his actions.

Final recommendations

In his final recommendations the prosecutor stated that the defendant confessed to all of the facts, was a first time offender. For this reason he requested for the court to impose a apply prison sentence of 3 years, suspended for 1 year.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. 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 3 months in prison, suspended for 1 year.

4. Simple offences against physical integrity characterized as domestic violence

Case No.	: 0013/15. MNLLB
Composition of the court	: Single Judge
Judge	: Ercilia de Jesus
Prosecutor	: Alfonso Lopes
Public Defender	: Jonas H. da Costa
Type of Penalty	: 2 months in prison, suspended for 1 year

On 8 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MP who allegedly committed the offence against his wife in Manatuto District.

Charges of the Prosecutor

The public prosecutor alleged that on 3 November 2015 at 4pm the defendant slapped the victim twice on the right cheek and once on the left cheek.

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 as well as Article 2, 3, 35 and 36 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 on the day after the incident the defendant immediately reconciled with the defendant, was a first time offender and regretted his actions. The victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

In his final recommendations the prosecutor stated that the defendant confessed to all of the facts, and was a first time offender. Therefore he requested for the court to impose a suspended prison sentence.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. Therefore he requested for the court to impose a lenient 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 1 year.

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

Case No.	: 0031/16. BCBCV
Composition of the court	: Single Judge
Judge	: Jose Escurial
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Jonas Henrique da Costa
Type of Penalty	: Fine of US\$ 30.00

On 8 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AdS who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that, on 27 May 2016 at 8pm, the defendant grabbed the victim by the hair, pulled her backwards and threw her on the ground and when she tried to stand up he again threw her to the floor. Then when the victim was sleeping in the bedroom together with their two children, the defendant was holding their son and was going to pick up their daughter, and the victim stopped him and twice kicked the defendant in the stomach and the defendant punched the victim twice in the head.

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 as well as Article 2, 3, 35 and 36 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 victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

In his final recommendations the prosecutor stated that the defendant confessed to all of the facts, and was a first time offender. Therefore he requested for the court to impose a fine in accordance with the defendant's capacity.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and ordered the defendants to pay a fine of US\$ 30.00 to be paid in daily instalments of US\$ 1.00 for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendants do not pay this fine.

6. Simple offences against physical integrity characterized as domestic violence

Case No.	: 0006/16. LALRO.
Composition of the court	: Single Judge
Judge	: Afonso Carmona
Prosecutor	: Bemvinda do Rosario
Public Defender	: Jonas Henrique da Costa
Type of Penalty	: 1 year in prison, suspended for 2 years

On 8 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MdC who allegedly committed the offence against his wife in Lautem District.

Indictment of the Public Prosecution Service

The public prosecutor alleged that on 23 July 2016, at 4pm, the defendant kicked the victim twice and punched the victim twice in the head. The defendant also dragged the victim inside the house and the victim slammed into the door resulting in an injury and bleeding. The victim received treatment at the Luro Health Centre.

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 as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, said he has reconciled with the victim, regretted his actions, was a first time offender. The victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

In his final recommendations the prosecutor stated that the defendant confessed to all of the facts, and was a first time offender. For this reason he requested for the court to impose a apply prison sentence of 2 years, suspended for 2 years.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. Therefore he requested for the court to impose a fine 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.

7. Simple offences against physical integrity

Case No. : 0076/15.BCBCV
Composition of the court : Single Judge
Judge : Ercilia de Jesus
Prosecutor : Alfonso Lopes
Public Defender : Jonas H. Da Costa
Type of Penalty : Fine against the defendants

On 8 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity involving the defendants EGB, SFB, OQB and JBF who allegedly committed the offence against the victim SRS, in Gari-uai Village, Baucau Sub-District, Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 2 November 2015, at midnight the defendant EGB punched the victim once in the mouth and the defendant SFB took a piece of wood and struck the victim twice on the shoulder, and the defendants OBQ and JBF chased the victim and struck the victim twice on the head with a piece of wood. These actions caused the victim to suffer injuries to his mouth, shoulder and head and he required treatment at the Baucau Referral Hospital. The incident occurred because when the other defendants were waiting for the defendant EGB who was lying in the street heavily drunk, suddenly the victim came from outside his house and suddenly said to the defendants *"if he is drunk then I will carry him inside so he can sleep there."* However the defendants did not accept this statement and immediately beat the victim.

The public prosecutor alleged that the defendants violated Article 146 (c) of the Penal Code on serious offences against physical integrity that carries a maximum penalty of 2-8 years in prison as well as Article 30 of the Penal Code on authorship.

Presentation of evidence

During the trial the defendant EGB stated that the incident actually occurred on all souls day. The defendant added that they were drinking alcohol and were heaving drunk and in the morning people were talking about the incident and only then they knew about it.

In addition the defendant SFB stated that during the incident the defendant EGB was heaving drunk and fell down on the road in front of the victim's house and

suddenly the victim came outside to to help the defendant but the defendant told the victim *“go back inside your house and leave me here.”*

Then, no long after the victim's younger sibling CNGX came outside and pushed the defendant EGB into the gutter, and the defendant SFB saw the victim take a piece of wood and beat the defendant EGB. Therefore the defendant SFB interjected and the defendant's mother came over and asked the victim SRS *“why did you beat your cousins”* and the victim responded with verbal abuse and hit the mother of the defendant EGB once on her side and caused her to fall down, and for this reason the defendant beat the victim.

The defendants OQB and JFB stated that they didn't know about the incident and they only found out in the morning when members of their family told them.

When the Court sought confirmation from the victims about the facts set out in the indictment, the victim maintained the facts set out in the indictment of the Prosecutor.

The witness CNGX who is the younger sibling of the victim testified that when the defendant EGB punched the victim in the mouth the witness witnessed it because he was standing close by and defendants also pushed the victim into the darkness, because they did not want the witness to follow them.

Final recommendations

In his final recommendations the prosecutor stated that the defendants were guilty of committing the crime against the victim, and therefore he requested for the court to impose a penalty on the defendants that was less than half of the recommended penalty.

The public defender referred to the evidence produced during the trial and requested for the court to amend the charge from serious offences against physical integrity to simple offences against physical integrity. However, if the court was to decide otherwise, then he requested an appropriate penalty to be imposed against the defendants.

Decision

After evaluating the facts established during the trial, the court considered the request of the public defender to amend the charge from serious offences against the physical integrity to simple offences against physical integrity.

With reference to the aforementioned amendment, the Court concluded the matter and ordered the defendants EGB and SFB to pay a fine of US\$ 90.00, to be paid in daily instalments of US\$1.00 for 90 days. The court imposed an alternative penalty of 60 days in prison if the defendants do not pay this fine. In relation to the defendants OQB and JBF the court ordered them to pay a fine of US\$ 60.00 to be paid in daily instalments of US\$ 1.00 for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendants do not pay this fine.

8. Simple offences against physical integrity characterized as domestic violence

Case No. : 0005/16. PDBAU
Composition of the court : Single Judge
Judge : Jose Quintão
Prosecutor : Alfonso Lopes
Public Defender : Jonas Henrique da Costa
Type of Penalty : Fine of US\$ 60.00

On 10 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JCS who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 22 August 2016 at 8am the defendant punched the victim once on the back, slapped the victim once on his left cheek and punched the victim once in the chest. As a result of these acts the victim was treated at the Vemasse Health Centre.

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 as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, said he has reconciled with the victim, regretted his actions, was a first time offender. The victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

In his final recommendations the prosecutor stated that the defendant confessed to all of the facts, and was a first time offender. Therefore he requested for the court to impose a suspended prison sentence.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. Therefore he requested for the court to impose a fine against the defendant.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and ordered the defendant to pay a fine of US\$ 60.00 to be paid in daily instalments of US\$ 1.00 for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

9. Simple offences against physical integrity and threats

Case No. : 0097/14. BCBCV
Composition of the court : Single Judge
Judge : Jose Escurial
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Jonas Henrique da Costa
Type of Penalty : Withdrawal of complaint

On 14 February 2017 the Baucau District Court attempted conciliation in a case of simple offences against physical integrity involving the defendants CFAdaC, MCHdC and FMP who allegedly committed the offence against the victim J, in Bahu Village, Baucau Sub-District, Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 9 September 2014, at 2.30pm, the victim travelled in a vehicle from Baucau to Laga. When they arrived in front of the Teulale Secondary School the defendants stopped the vehicle and asked “*who is Sinto Laga.*” Because he was afraid the victim did not respond and hid in the car, but the defendants identified the victim and pushed the victim from the car and punched him once in the ear and mouth and he suffered bleeding from his mouth. As a result of these acts the victim was treated at the Baucau Referral Hospital.

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 this attempted conciliation the victim wanted to withdraw the complaint against the defendants because they were all young and wanted to have good relations in the future. The defendants apologised to the victim and agreed with the victim's request to withdraw the complaint.

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, the Court decided to validate the settlement.

10. Simple offences against physical integrity characterized as domestic violence

Case No. : 0011/16. MNLLA
Composition of the court : Single Judge

Judge : Afonso Carmona
Prosecutor : Bemvinda do Rosario
Public Defender : Grigorio de Lima
Type of Penalty : 1 year in prison, suspended for 2 years

On 15 February 2017 the Baucau District Court, through the mobile court in Manatuto District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JMX who allegedly committed the offence against his wife in Manatuto District.

Indictment of the Public Prosecution Service

The public prosecutor alleged that on 9 September 2016 at 2am the defendant punched the victim twice in the head squeezed the victim's arm and caused the victim to suffer pain and swelling to his head and arm. After this incident the victim immediately lodged a complaint at the Laleia Police Station.

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 as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Testimony of the defendant

During the trial the defendant confessed all of the facts set out in the indictment, stated that he was a first time offender, that he regretted his actions and he has reconciled with the victim. The victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

In his final recommendations the prosecutor stated that the defendant confessed to all of the facts, and was a first time offender. 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 all of the facts set out in the indictment, regretted his actions and was a first time offender. 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 in prison, suspended for 2 years.

11.Simple offences against physical integrity characterized as domestic violence

Case No. : 0132/14. BCBCV
Composition of the court : Single Judge
Judge : Anotonio Fonseca
Prosecutor : Bemvinda do Rosario

Public Defender : Jonas H. da Costa
Type of Penalty : 10 months in prison, suspended for 1 year

On 16 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MdC who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The prosecutor alleged that on 25 November 2014 at 3pm the defendant grabbed the victim and threw her on the ground and the victim's left shoulder struck some house bricks that were stacked up. In addition the defendant also twice struck the victim on the back of her neck and caused the victim to suffer pain to her shoulder and neck and the victim was treated at the Wailili Health Centre.

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 as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, was a first time offender, regretted his actions, and has reconciled with victim. The victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

In his final recommendations the prosecutor stated that the defendant confessed to all of the facts, and was a first time offender. For this reason he requested for the court to impose a apply prison sentence of 2 years, suspended for 2 years.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. Therefore he requested for the court to impose a lenient 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 10 months in prison, suspended for 1 year. The court also ordered the defendant to periodically report to the court once a month for 10 months and ordered him to pay court costs of US\$ 10.

12.Simple offences against physical integrity characterized as domestic violence

Case No. : 0145/13. PDBAU
Composition of the court : Single Judge
Judge : Jose Quintão
Prosecutor : Luis H. Rangel da Cruz

Public Defender : Grigorio de Lima
Type of Penalty : Fine of US\$ 30.00

On 17 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AG who allegedly committed the offence against his wife in Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 20 September 2016 at 9am the defendant punched the victim once on the left side of her back, kicked the victim once in the chest and slapped the victim once on her left cheek and twisted the victim's right arm. As a result of these acts the victim was treated at the Baguia Health Centre.

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 as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment against the defendant. The defendant was a first time offender, regretted his actions and has reconciled with the victim. The victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

In his final recommendations the prosecutor stated that the defendant confessed to all of the facts, and was a first time offender. For this reason he requested for the court to impose a apply prison sentence of 4 months, suspended for 1 year.

The public defender stated that the defendant confessed to all of the facts set out in the indictment and was a first time offender. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and ordered the defendant to pay a fine of US\$ 30.00 to be paid in daily instalments of US\$ 0.50 for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

13. Property damage

Case No. : 0307/12. PDBAU
Composition of the court : Single Judge
Judge : Jose Goncalves
Prosecutor : Alfonso Lopes
Public Defender : Grigorio de Lima

Type of Penalty : Fine of US\$120 against the defendant MM and the defendant NX

On 21 February 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity involving the defendants MM, TM and NX who allegedly committed the offence against the victim DdCP, in Buibau Village, Baucau Sub-District, Baucau District.

Charges of the Prosecutor

The prosecutor alleged that on 28 May 2016 at 12.00 midday the defendants came out of their house carrying machetes and went to the victim's plantation and cut down a coconut tree belonging to the victim.

The public prosecutor alleged that the defendants violated Article 258 of the Penal Code on property damage with that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendant MM stated that at that time the defendant told the victim three times to cut down the coconut tree because there were strong winds and the inside of the tree was hollow and the defendant was afraid that the coconut tree would fall down on to his house and his children. Therefore the defendant took the initiative to cut down the coconut tree, but the victim did not accept this.

The defendant TX stated that at that time the defendants where all at the scene, but they did not cut down the coconut tree. The defendant NX stated that at that time he was not at the scene because he was waiting for the rice hulling machine in Vila Nova.

The victim maintained the facts set out in the indictment, and the victim also stated that it was only after three days that the defendant told the victim that he had cut down the coconut tree.

The witness EGF, who was a neighbor, testified that at that time he saw the defendant MM and his friends cut down the coconut tree, but he did not see the defendants TX and NX.

Final recommendations

In his final recommendations the prosecutor stated that the defendant MM confessed the facts set out in the indictment and testified that he did cut down one tree. Therefore he requested for the court to impose a fair penalty against the defendant MM and requested for the court to acquit the defendants TX and NX.

The public defender referred to the evidence produced during the trial and requested for the court to impose an adequate penalty against the defendant MM and requested for the court to acquit absolve the defendants TX and MX from the charges.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and sentenced the defendant MM to a fine of US\$ 120.00 to be paid in daily instalments of US\$ 2.00 for 60 days. The court also imposed an alternative penalty of 30 days in prison if the defendant does not pay this fine, and also ordered the defendant to pay compensation to the victim for damages totaling US\$ 25 and also to pay court costs of US\$ 10.00. The court acquitted the defendants TX and NX because there was insufficient evidence about their involvement.

14. Crimes against flora and fauna

Case No.	: 0318/13. PDBAU
Composition of the court	: Single Judge
Judge	: José Goncalves
Prosecutor	: Bemvinda do Rosario
Public Defender	: Sidonio M. Sarmiento
Type of Penalty	: Acquitted

On 27 February 2017 the Baucau District Court announced its decision in a case involving crimes against flora and fauna involving the defendant SG who allegedly committed the crime against the Ministry of Agriculture and Fisheries, in Berkoli Village, Venilale Sub-District, Baucau District.

Charges of the Prosecutor

The public prosecutor alleged that on 17 July 2013 at 09.00 am the defendant cut down a teak tree measuring 6x12 cm without a permit, amounting to three cubic and the defendant transported the timber with a truck from Luka Viqueque. When he arrived in Berkoli, Venilale, the police checked the vehicle and found the teak and confiscated it. The defendant was transporting the teak with the intention of selling it in Baucau.

The public prosecutor alleged that the defendant violated Article 217 of the Penal Code on crimes against flora and fauna that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendant stated that he did not cut down the teak tree, but rather EDTL cut it down and took an excavator and pushed it into the river. The EDTL cut down the teak tree because it installed a thick cable which crossed the defendant's plantation and touched the defendant's teak tree and at that time the defendant needed some timber to make door frames and window frames and therefore he cut up the teak tree that had been felled by the EDTL.

The witness JMdCB, who is a driver, testified that at that time the defendant rented a car to transport the teak from Luka Viqueque to Baucau, but the witness did not know for what purpose the teak was being transported to Baucau.

The witness CBdC is a staff member of the Ministry of Agriculture and Fisheries in Baucau and testified that the teak confiscated by the police is still with the Baucau Fisheries Directorate and the witness is only responsible for protecting flora and fauna in the Baucau area, but this incident occurred in Viqueque.

Final recommendations

In his final recommendations the prosecutor stated the defendant testified that he did not cut down the teak tree, but rather the EDTL cut it down. Therefore he requested for the court to acquit the defendant. In addition the defence also agreed with the recommendations of the public prosecutor for the court to acquit the defendant.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and acquitted the defendant.

For more information, please contact:

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