



Press Release
Baucau District Court
01 March 2022

The court revokes suspended prison sentence for the crime of domestic violence and imposes an effective prison sentence of 1 year against the defendant AdP who reoffended

On 15 February 2022 the Baucau District Court imposed an effective prison sentence of one year against the defendant AdP who on 10 September 2021 was found to have repeated the crime of domestic violence against his wife whilst serving a suspended prison sentence, in Baucau Municipality.

Previously on 4 April 2021 the Court sentenced the defendant to prison for six months, which was suspended for one year, for committing the crime of simple offences against physical integrity characterized as domestic violence against his mistress. However during the period of the suspended sentence, on 10 September 2021, the defendant also committed the crime of simple offences against physical integrity against his wife. Therefore, the court considered that the defendant had failed to show remorse for his behaviour and the court applied an effective prison sentence of one year.

Also, on 26 October 2021 the Court imposed a prison sentence of four months against the defendant that was suspended for one year, because he was found guilty of committing the crime of simple offences against physical integrity against his wife. This crime was also considered by the court when it decided to apply an effective penalty, even though it was not committed during the period of suspension.

“This sentence is aimed at educating the community when domestic violence is repeated, which is a simple offence punishable with a prison sentence in accordance with the applicable criminal law. This reflects the obligation in Article 73 of the Penal Code on revocation of a suspension, so that there is no tolerance of defendants who demonstrate no remorse for the crimes they have already been convicted of by the court and fail to comply with the court’s previous decision,” said Ms. Ana Paula Marçal, Executive Director of JSMP.

JSMP welcomes the decision in this case because the courts are starting to show a great deal of sensitivity in cases of domestic violence, to especially provide protection to victims against domestic violence. If defendants in cases of domestic violence are not

given an adequate sentence it will fail to deter them from committing other crimes in the future. JSMP has observed that many cases of domestic violence have concluded with a suspended sentence and often the community and the defendant consider that this is not a type of sentence because it does not impose any additional obligation or responsibility to control defendants.

In this case the public prosecutor alleged that on 10 September 2021 at 13:30 the defendant met the victim on the road and the victim asked the defendant for money to buy household necessities, however the defendant did not give her any money and the victim continued to ask for money. Therefore, the defendant punched the victim once in the head, punched the victim once on her left cheek, punched the victim once on her right ear and took a pipe and struck the victim once on her left knee, kicked the victim once in her chest and kicked the victim once in her right ribs which caused the victim to fall to the ground. Prior to this incident, the defendant and the victim were living separately and the defendant did not look after the needs of their children.

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 Articles 2, 3 and 35(b) of the Law Against Domestic Violence.

During the trial the defendant confessed to all of the facts in the indictment and stated that previously the court imposed a suspended sentence for the same crime. Also, the victim confirmed all of the facts in the indictment and stated that they are living separately and the defendant has not looked after the day to day needs of the victim and their children.

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim, and also the previous criminal record of the defendant. Therefore, this new case showed that the defendant did not feel remorse whilst serving a suspended sentence. For this reason the public prosecutor requested for the court to impose a prison sentence of 1 year, suspended for 2 years. The defence agreed with the recommendation of the prosecutor.

After evaluating all of the facts, the court found the defendant guilty of committing the crime against the victim and the defendant did not show any remorse. The court had already imposed a suspended sentence against the defendant in a previous case. After considering all of the circumstances the court decided that a sentence befitting the actions of the defendant would be in the form of a prison sentence and the court decided to impose a prison sentence of one year against the defendant.

JSMP believes that the court has the conviction to ensure protection, especially in cases of violence against women. JSMP also observed that this is not the first time the courts have convicted a defendant in a case of domestic violence and have imposed an effective prison sentence. JSMP hopes that in addition to upholding justice for the victim, this sentence can also provide a lesson to the defendant and the community to avoid committing the crime of domestic violence in the community.

This case was registered by the court as Case No. 0019/21.BCLGA. The trial was presided over by single judge Florensia Freitas. The public prosecution service was represented by Bartolomeu de Araújo and the defendant was represented by Sidonio Maria Sarmiento.

For more information, please contact:

Ana Paula Marçal

Executive Director of JSMP

Email: ana@jsmp.tl

Telephone: 3323883 | 77040735

Website: <http://jsmp.tl>