



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN SISTEMA JUDISIÁRIU

Case Summary
Oecusse District Court
February 2022

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

1. Total number of cases monitored by JSMP: 19

Articles	Case Type	Total Number
Article 145 of the Penal Code (PC) as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence.	10
Articles 177 & 182 (PC)	Aggravated sexual abuse of a minor	1
Articles 138 and 139 of the PC, as well as Articles 2, 3, and 35(b) and 36 of the LAVD	Aggravated homicide characterized as domestic violence and types of offences categorised as domestic violence	1
Article 155 of the PC	Mistreatment of a minor	1
Article 316 of the PC	Smuggling	2
Article 207 of the PC	Driving without a license	1
Article 157 of the PC	Threats	1
Article 145 of the PC	Simple offences against physical integrity	2
Total		19

2. Total number of decisions monitored by JSMP: 12

Type of decision	Articles	Total Number
Suspension of execution of a prison sentence	Article 68 of the PC	8
Fine	Article 67 of the PC	1
Validating withdrawal of complaint	-	3
Total		12

3. Total number of ongoing cases based on JSMP monitoring: 7

B. Short description of proceedings in these cases

1. Crime of making threats

Case Number	: 0010/21.OEPMK
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Calisto Tout
Decision	: Validating withdrawal of complaint

On 2 February 2022 the Oecusse District Court attempted conciliation in a case of making threats involving the defendant Domingos Mamo who allegedly committed the offence against his wife Pedronela Auni Nono, in Baqui Sub-Village, Naimeco Village, Pante-makasar Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 20 February 2021, at 9pm, the defendant took a knife that was being used to cut vegetables and threatened to cut off the victim's fingers and told the victim to leave the house and if she didn't leave the house, she would die like the woman in Nianapu. Because the victim was afraid of the defendant's threats, she immediately made a complaint to the police. Previously the defendant and the victim argued about preparing dinner, and they were talking over the telephone, therefore the defendant became upset and threatened the victim.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats with that carries a maximum penalty of 2 years in prison or a fine.

Examination of evidence

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

During this attempted conciliation, the victim wanted to reconcile with the defendant without any conditions, because the defendant and victim are husband and wife, they have reconciled and continue to live in the same house. The defendant agreed with the victim's request and expressed regret for his actions and promised not to repeat such acts in the future, so the victim requested for the court to withdraw the complaint against the defendant.

Final recommendations

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 amicable agreement between the two parties and the victim's request to withdraw the complaint, pursuant to article 262.2 of the Criminal Procedure Code, the court concluded this matter and endorsed the agreement to withdraw this complaint without any conditions

considering that the defendant and the victim have reconciled and are still living together as husband and wife.

2. Crime of simple offences against physical integrity

Case Number : 0011/21.OEPMK
Composition of the Court : Single Judge
Judge : Yudi Pamunkas
Prosecutor : Mateus Nesi
Defence : Marcelino Marques Coro
Decision : Validating withdrawal of complaint

On 8 February 2022 the Oecusse District Court announced its decision regarding attempted conciliation in a case of simple offences against physical integrity involving the defendant Ricky da Costa Soares and the victim Leonito Vensio Ivanio da Costa Soares, in Sanane Sub-Village, Costa Village, Pante-Makasár Sub-District, Oecusse District.

Charges of the Prosecutor

The prosecutor alleged that on 10 February 2021, at 6pm, the defendant grabbed the victim's shirt and asked "*Are you the one that hit my brother..?*" *The victim said 'It wasn't me'*. Then the defendant kicked the victim once on his side, pulled the victim's hair, threw the victim on the ground and then stood on the victim when he was lying on the ground. The defendant's actions caused the victim to suffer pain to his body. A medical report from the Oecusse Referral Hospital and photos showing the effects of the violence that were taken by the police were included in the case file.

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.

Examination of evidence

Before progressing to the presentation of evidence, pursuant to Article 262.1 of the Criminal Procedure Code on attempted conciliation, the judge requested an attempt to reach conciliation between the defendant and victim.

During this attempted conciliation, the victim wanted to reconcile with the defendant on the condition that the defendant needs to provide civil compensation of US\$150.00 to redress the harm that the victim suffered as a result of the defendant's actions. The victim asked the defendant not to repeat such acts against the victim in the future. The defendant agreed with the victim's request and expressed regret for his actions and promised not to repeat such acts in the future, so the victim requested for the court to withdraw his complaint against the defendant.

Final recommendations

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 amicable agreement between the two parties and the victim's request to withdraw the complaint, therefore pursuant to Article 262.2 of the Criminal Procedure Code, the court concluded the matter and endorsed the agreement to withdraw this complaint on the condition that the defendant provides civil compensation to the victim of US\$150.00 on 28 February 2022.

3. Crime of simple offences against physical integrity

Case Number : 0152/20.OESIC
Composition of the Court : Single Judge
Judge : Yudi Pamunkas
Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Calisto Tout
Decision : Validating withdrawal of complaint

On 11 February 2022 the Oecusse District Court announced its decision regarding attempted conciliation in a case of simple offences against physical integrity involving the defendant Idiana Maria Melinha Silva de Jesus and the victim Cecilia dos Remedios, in Sanane Sub-Village, Costa Village, Pante-Makasár Sub-District, Oecusse District.

Charges of the Prosecutor

The prosecutor alleged that on 14 October 2020, at 7am, the defendant punched the victim once on her left arm which caused pain and caused the victim's telephone to fall to the ground. This act occurred when the victim tried to contact the police to ask for assistance to go to the scene to restore calm and prevent any other crimes from occurring. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file that showed the results of this violence.

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.

Examination of evidence

Before progressing to the presentation of evidence, pursuant to Article 262.1 of the Criminal Procedure Code on attempted conciliation, the judge requested an attempt to reach conciliation between the defendant and victim.

During this attempted conciliation, the victim wanted to reconcile with the defendant on the condition that the defendant provide civil compensation of US\$50.00 to the victim. The victim asked the defendant not to repeat such acts against the victim in the future. The defendant agreed with the victim's request and expressed regret for her actions and promised not to repeat such acts in the future, so the victim requested for the court to withdraw her complaint against the defendant.

Final recommendations

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 amicable agreement between the two parties and the victim's request to withdraw the complaint, therefore pursuant to Article 262.2 of the Criminal Procedure Code, the court concluded the matter and endorsed the agreement to withdraw this complaint on the condition that the defendant provides civil compensation to the victim of US\$50.00.

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

Case Number : 0015/20.OEBCN
Composition of the Court : Single Judge
Judge : Yudi Pamukas
Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Calisto Tout
Decision : Prison sentence of 1 year, suspended for 1 year

On 14 February 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant NS who allegedly committed the offence against his daughter AS (aged 16) in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 25 April 2020, at 5pm, the defendant took a piece of wood and struck the victim once on her right calf and once on her left calf and caused the victim to suffer pain. Previously the victim argued with her younger sibling Ajilda Maria Sipa so the defendant became angry and committed the assault against the victim. At the time of the incident the defendant had just arrived home from a plantation and saw the victim arguing with her younger sibling. A medical report from the Baocnana Medical Centre and photographs from Police were also attached to this case file.

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(c), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed all of the facts and regretted his actions. After the incident, the defendant and victim immediately reconciled, and have continued to live together as a family and the defendant was a first time offender. The defendant also stated that he has been looking after the victim until now and has five children, and works as a farmer with no fixed monthly income and promised not to repeat his behaviour against his children or other person in the future.

The victim confirmed all of the facts in the indictment, and said that this was the first time that the defendant had struck the victim, and also stated that at that time the defendant did try to strike the victim but only hit her skirt, however the victim stated that the defendant's actions were not good.

Final recommendations

The public prosecutor stated that the defendant's behaviour fulfilled the elements of the crime of simple offences against physical integrity characterised as domestic violence against his daughter because during the examination of evidence the defendant fully confessed. The prosecutor considered that in the circumstances the victim could make a statement that was unfair because she loves the defendant so much, as he is her father. Therefore, the prosecutor requested for the court to issue an admonishment against the defendant.

The public defender said that the defendant collaborated with the court, regretted his actions and this victim confirmed that the defendant tried to hit her twice but only hit her skirt, because at that time she was wearing a long skirt and didn't feel any pain. The victim is the daughter of the defendant, and this was the first time he assaulted the victim, they have reconciled, the defendant has five children, works as a farmer and has no fixed monthly income, and he promised not to repeat such acts in the future. Therefore the defence requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court found that on 25 April 2020, at 5pm, the defendant took a piece of wood and struck the victim once on her right calf and once on her left calf and caused the victim to suffer pain. The court proved that the defendant committed all of these acts freely and with intent because he wanted to physically assault the victim.

Based on all of the evidence and consideration of the aggravating and mitigating circumstances surrounding this crime, the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for 1 year.

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

Case Number	: 0172/20.OESIC.
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Calisto Tout
Decision	: Prison sentence of 1 year and 6 months, suspended for 2 years

On 14 February 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MT who allegedly committed the offence against his wife VU in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 22 November 2020, at 10pm, the defendant kicked the victim once on her right thigh, choked the victim once and punched the victim twice in the head which caused the victim to lose consciousness and fall to the ground. The victim tried to flee from the defendant but the defendant chased her and grabbed her and choked the victim and kicked the victim on her left thigh. The defendant's behaviour caused the victim to suffer pain to her head, throat and thigh. Previously the defendant and the victim argued because the defendant suspected that the victim had damaged a phone, so he became angry and committed the assault against the victim. A medical report from PRADET and photographs from the police were also attached to this case file.

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(a), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed to all of the facts set out in the indictment, and knew that such acts were not good and he regretted his behaviour. The defendant and the victim got together in 2016 but don't have any children and previously they never had any problems, they have reconciled and have continued living together as husband and wife and have had no other problems. The defendant further stated that the victim has forgiven him and at that time he was drunk, he works as a tradesman, but has no fixed monthly income, he was a first time offender and promised not to reoffend against his wife or any other person in the future.

The victim confirmed all of the facts in the indictment, and confirmed that they got together in 2016, and since the incident they have had no other problems, they have reconciled, this was the first time that the defendant physically assaulted the victim and the defendant only hit the victim because the memory card of the telephone was no good, so this made the defendant angry.

Final recommendations

The prosecutor alleged that the defendant assaulted his wife had done this many times already. The prosecutor said the defendant committed this act freely, deliberately and consciously to harm the health of the victim in the way described in the indictment. Therefore, the prosecutor said there was no doubt about the facts written in the indictment and the defendant's actions had been proven and his actions fulfilled the elements of the crime of simple offences against physical integrity categorised as domestic violence. The prosecutor added that the defendant's acts were very violent and therefore it was probable that such crimes would continue. For this reason the prosecutor requested for the court to impose a apply prison sentence of 3 years, suspended for 3 years.

The public defender said that since they have been together this was the first time that the defendant physically assaulted his wife, the defendant collaborated with the court, acknowledged that his behaviour against his wife was not good and regretted his actions, has reconciled, the defendant and the victim don't have any children however previously the defendant and his first wife has eight children, the defendant works as a tradesman with no fixed income, and he promised not to repeat his behaviour in the future. Therefore the defence requested for the court to impose a fair penalty against the defendant.

Decision

The court considered that the defendant's acts had been proven, the defendant kicked the victim on her right thigh, choked her once and punched the victim twice in the head and the victim lost consciousness and fell to the ground. The victim tried to flee from the defendant but the defendant chased her and caught the victim and choked her and kicked the victim once on her left thigh.

Based on all of the evidence and all of the mitigating and aggravating circumstances, the court settled this matter and sentenced the defendant to 1 year and six months in prison, suspended for 2 years.

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

Case Number : 0020/20.OEOSL
Composition of the Court : Single Judge
Judge : Yudi Pamukas
Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Calisto Tout
Decision : Prison sentence of 1 year, suspended for 1 year

On 14 February 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JE who allegedly committed the offence against his wife RL in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 2 November 2020, at approximately 5pm, the defendant slapped the victim once on the back of her neck and caused the victim to suffer pain. Previously the victim and the defendant attended a cultural ceremony in Paut and were there until the afternoon. The defendant wanted to go home however the victim wanted to participate in the ceremony. The defendant became angry and committed the assault against the victim. A medical report from the Baqui Medical Centre and photographs from the Police were also attached to this case file.

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(d), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed all of the facts and regretted his actions. The defendant and the victim got together in 2005 and have reconciled, and after the incident they have continued to live together as husband and wife until now, they have four children, the defendant works as a farmer and has no fixed monthly income and has promised not to repeat such acts against his wife or other person in the future.

The victim confirmed all of the facts in the indictment, and this was the first time that the defendant assaulted the victim. The victim confirmed that she has reconciled with the defendant and the defendant gave a buffalo to the victim's parents as a fine.

Final recommendations

The prosecutor stated that the defendant fully confessed the facts set out in the indictment. The defendant pushed the victim once on her cheek which caused the victim to suffer pain. The prosecutor stated that there are many crimes involving family members in the Oecusse region in comparison with other municipalities. For this reason the public prosecutor requested for the court to impose a prison sentence of 1 year, suspended for 1 year.

The public defender said that the defendant collaborated with the court and confessed to all of the facts and knew that his acts were not good, and he regretted his behaviour. The public defender added that the defendant and victim have reconciled, and this was the first time he had hit the victim, the defendant has four children, works as a farmer and has no fixed monthly income, and he promised not to repeat such acts in the future. Therefore the defence requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court proved that on 2 November 2020, at approximately 5pm, the defendant slapped the victim once on the back of her neck and caused the victim to suffer pain. The court also proved that the defendant committed all of these acts with intent because he wanted to physically assault his wife.

Based on all of the evidence and consideration of the aggravating and mitigating circumstances surrounding this crime the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for 1 year.

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

Case Number	: 0011/20.PDOEC
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Marcelino Marques Coro
Decision	: Prison sentence of 2 years, suspended for 2 years

On 14 February 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MF who allegedly committed the offence against his wife HO in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 10 June 2020, at 8:00am, the defendant grabbed the victim by the arm and threw her into a wall, slapped the victim once on her right cheek and punched the victim once on the back of the neck. Previously the defendant and the victim argued because they had no rice left to cook. However the defendant was not concerned and was sleeping so the victim woke the defendant up. The defendant became angry and assaulted the victim. The defendant's physical assault caused the victim to suffer pain. A medical report from PRADET and photographs from the police were also attached to this case file.

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(d), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed to all of the facts in the indictment and knew that the physical assault was not good and he regretted his behaviour. The defendant has four children, was a first time offender, has reconciled, and lives in his own house, works as a farmer and has

no fixed monthly income and he hit the victim because they argued because there was no rice to cook.

The victim confirmed all of the facts in the indictment and the defendant and the victim got together in 2014 and this was the first time that the defendant physically assaulted the victim.

Final recommendations

The public prosecutor stated that during the examination of evidence there were strong indications that the defendant was guilty of committing the crime of simple offences against physical integrity characterised as domestic violence. Therefore, the prosecutor had no doubt about the facts in the indictment, and the defendant fully confessed the facts. For this reason the prosecutor requested for the court to impose a apply prison sentence of 2 years, suspended for 3 years.

The defence requested for the court to impose a lenient penalty with consideration that during the examination of evidence the defendant collaborated with the court and confessed to all of the facts in the indictment. During the examination of evidence the defendant acknowledged that such behaviour was not good and regretted his behaviour, and since the incident the defendant has not physically assaulted the victim, promised that he would not repeat such acts in the future and regretted his actions. The public defendant stated that the defendant has four children, was a first time offender, has reconciled, lives in his own house, works as a farmer and has no fixed monthly income.

Decision

After evaluating all of the facts, the court found that the defendant grabbed the victim by the arm and threw her into a wall and then slapped the victim once on her right cheek and punched the victim once on the back of her neck. The court also proved that the defendant committed all of these acts with intent because he wanted to physically assault his wife on many occasions.

Based on all of the evidence, and consideration of the aggravating and mitigating circumstances, the court concluded this matter and sentenced the defendant to 2 years in prison, suspended for 2 years.

8. Driving without a license

Case Number	: 0027/19.OEBCN
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Calisto Tout
Decision	: Fine of US\$ 50.00

On 14 February 2022, the Oecusse District Court announced its ruling in a case of driving without a license involving the defendant Abilio Quelo who allegedly committed the offence against the State of Timor-Leste, in Citrana Sub-Village, Beneufe Village, Nitibe Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 19 September 2019, at 11am, the defendant was riding a Yamaha KLX motorcycle with the number plate 1245 GA-TL on a public road towards the Nuni area and the police were conducting checks and found out that the defendant was riding a motorcycle without a driving licence.

The public prosecutor alleged that the defendant 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.

Examination of evidence

During the trial the defendant confessed all of the facts set out in the indictment, regretted his actions, and was a first time offender. The defendant said he understood that such behaviour is not good and is against the law. The defendant is young and unemployed and has no fixed monthly income and the defendant had been riding a motorcycle for approximately 1 year.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed to all of the facts in the indictment.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of driving without a licence based on the confession of the defendant. The prosecutor also added that the defendant had been riding a motorcycle for one year however he did not have a driving licence and the defendant's behaviour could cause unrest on public roads. For this reason, the prosecutor requested for the court to convict the defendant pursuant to Article 207 of the Penal Code.

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. The public defender added that the defendant was young and has no fixed monthly income and promised not to repeat such acts in the future. Therefore, the defence requested for the court to impose a lenient penalty against the defendant.

Decision

After evaluating all of the facts, the court proved that the defendant was riding a Yamaha KLX motorcycle with the number plate 1245 GA-TL on a public road towards the Nuni area and the police were conducting checks and found out that the defendant was riding a motorcycle without a driving licence.

Based on all of the evidence and consideration of the aggravating and mitigating circumstances surrounding this crime the court concluded this matter and ordered the defendant to pay a fine of US\$ 50 to be paid in daily instalments of US\$1.00 for 50 days. The court also imposed an alternative penalty of 45 days in prison if the defendant does not pay this fine.

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

Case Number	: 0050/21.OEPMK
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Mateus Nesi
Defence	: Calisto Tout

Decision : Prison sentence of 1 year and 6 months, suspended for 2 years

On 21 February 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AM who allegedly committed the offence against his wife AC in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 30 May 2021, at approximately 10.00 pm, the defendant punched the victim once on her right cheek, slapped the victim twice on her right cheek, punched the victim once in the chest and then punched the victim twice in the stomach. The defendant's actions caused the victim to suffer pain to her body. Previously the defendant did not want to eat the vegetables that the victim had cooked, because they were mixed with papaya leaves and the food was very dry, and the defendant wanted some sauce with his meal so the defendant became angry and assaulted the victim. A medical report from PRADET and photographs of the injuries from this violence from the Police were also attached to this case file.

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(a, c), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed to all of the facts set out in the indictment, and knew that such acts were not good and he regretted his behaviour. The defendant and victim got together in 2014, he has two children, and previously they had no problems, have not yet reconciled and are still living separately, and two children are living with the victim at the home of the victim's parents. The defendant further stated that he works as a farmer, but has no fixed monthly income, he was a first time offender and promised not to reoffend against his wife or any other person in the future.

The victim confirmed all of the facts in the indictment and said that the defendant and the victim got together in 2014, and they have not yet reconciled because they are living separately and in the past the defendant always physically assaulted the victim. The victim said that she is living with the children and the defendant never visits them at the home of the victim's parents. The victim stated that she does not want to live with the defendant because she is traumatized by the defendant's behaviour.

Final recommendations

The prosecutor alleged that the defendant committed a serious physical assault against his wife and always physically assaulted his wife. The prosecutor said the defendant committed this crime freely, deliberately and consciously to harm the health of the victim and in the way described in the indictment. Therefore, the prosecutor said there was no doubt about the facts written in the indictment and the defendant's actions had been proven and his actions fulfilled the elements of the crime of simple offences against physical integrity categorised as domestic violence. Therefore, the prosecutor requested for the court to impose a penalty in accordance with Article 145 of the Penal Code.

The public defender said that since they have been together, this was the first time that the defendant physically assaulted his wife, the defendant collaborated with the court, the defendant acknowledged that his behaviour against his wife was not good and he regretted his actions, they have not yet reconciled because after the incident the victim took their two children from the house to go and live together with the victim's parents. The public defender said that the defendant works as a farmer and has no fixed monthly income, and he promised that he would not repeat such acts in the future. Therefore the defence requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court decided that the defendant assaulted the victim, namely punched the victim once on her left cheek, slapped the victim twice on her right cheek, punched the victim once in the chest and then punched the victim twice in the stomach. The court also proved that the defendant committed all of these acts with intent because he wanted to physically assault his wife.

Based on all of the evidence and consideration of the aggravating and mitigating circumstances, the court concluded this case and sentenced the defendant to 1 year and six months in prison, suspended for 2 years

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

Case Number	: 0036/21.OESIC
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Mateus Nesi
Defence	: Calisto Tout
Decision	: Prison sentence of 1 year and 3 months, suspended for 2 years

On 21 February 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant PO who allegedly committed the offence against his wife RO and son VFO (aged three) in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 19 April 2021, at approximately 10pm, the defendant was holding his son and threw him on to the bed which made the victim feel afraid and he cried. Then the defendant assaulted his wife, and slapped her once on the right cheek and once on the left cheek which caused the victim to suffer pain. Previously the defendant told the victim to put dinner on the table, however the victim said they she was breastfeeding the baby, so the defendant became angry and assaulted the two victims.

A medical report from the Oecusse Referral Hospital via Pradet and photos showing the effects of the violence that were taken by the police were included in the case file.

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(a, c), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed all of the facts and regretted his actions. The defendant and the victim got together in 2016 and have reconciled. The defendant stated that after the incident they have continued living together as husband and wife and have had no more problems, the defendant has three children, works as a security guard with Guardamor and has a monthly income of US\$115.00 and the defendant promised not to repeat such acts against his wife or other person in the future.

The victim confirmed all of the facts in the indictment, and this was the first time that the defendant assaulted his wife and his son. The victim forgave the defendant for his actions and they have reconciled and after the incident the defendant has not physically assaulted the victim or their children.

Final recommendations

The prosecutor said that the defendant totally confessed to all of the facts in the indictment namely that the defendant slapped the victim once on her right cheek and left cheek which caused her to suffer pain. The prosecutor stated that there are many crimes involving family members in the Oecusse region in comparison with other municipalities. For this reason, the prosecutor requested for the court to impose a prison sentence of 1 year, suspended for 1 year.

The public defender said that the defendant collaborated with the court and confessed to all of the facts and knew that his acts were not good, and he regretted his behaviour. The public defender added that the defendant and victim have reconciled, and this was the first time he had hit the victim, the defendant has four children, works as a security guard with Guardamor and has a fixed monthly income of US\$ 115.00, and he promised not to repeat such acts in the future. Therefore the defence requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts the court found that on 19 April 2021, at approximately 10pm, the defendant was holding his son and threw him on the bed which made his son afraid and he cried and then the defendant slapped his wife once on her right cheek and once on her left cheek which caused her to suffer pain. The court also proved that the defendant committed all of these acts with intent because he wanted to physically assault his wife.

Based on all of the evidence and all of the mitigating and aggravating circumstances, the court settled this matter and sentenced the defendant to 1 year and three months in prison, suspended for 2 years.

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

Case Number : 0042/19.OEBCN
Composition of the Court : Single Judge
Judge : Yudi Pamukas

Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Calisto Tout
Decision : Prison sentence of 2 years, suspended for 2 years

On 25 February 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant LM who allegedly committed the offence against his wife FN and daughter EM (aged three) in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 6 October 2019, at 5pm, the defendant slapped his wife twice on her right cheek and then slapped their daughter on her forehead. The actions of the defendant caused the victims to suffer pain. These acts were committed without a clear motive because the defendant was intoxicated at that time. A medical report from the Baocnana Medical Centre and photographs of the injuries from this violence from the Police were also attached to this case file.

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(a, c), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed to all of the facts in the indictment, the defendant acknowledged that his acts were no good, the defendant has two children, this was the first time that he assaulted the victims and was a first time offender, they have reconciled, he lives in his own home, works as a farmer has and has no fixed monthly income and the defendant promised to repeat such acts against his wife or family member in the future.

Meanwhile, the victim confirmed all of the facts set out in the indictment and added that the defendant was her husband. The victim said that after the incident the victims and the defendant immediately reconciled and the this was the first time that the defendant had physically assaulted the victims.

Final recommendations

The public prosecutor stated that during the examination of evidence there were strong indications that the defendant was guilty of committing the crime of simple offences against physical integrity characterised as domestic violence against the two victims. Therefore, the prosecutor had no doubts about the facts written in the indictment with consideration that during the examination of evidence the defendant totally confessed. For this reason the prosecutor requested for the court to impose a prison sentence of 1 year, suspended for 1 year and 6 months.

The defence requested for the court to impose a lenient penalty with consideration that during the examination of evidence the defendant collaborated with the court. During the examination of evidence the defendant also acknowledged that such behaviour was not good and he regretted his behaviour, and since the incident the defendant has not physically assaulted the victims, has promised that he would not repeat such acts in the future. The public defendant stated that the

defendant has two children, was a first time offender, has reconciled, works as a farmer and has no fixed monthly income.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim twice on her right cheek and then slapped his daughter once on her forehead. The court also proved that the defendant's actions were committed deliberately, and the defendant committed these crimes against his wife and daughter.

Therefore, based on all of the evidence and all of the mitigating and aggravating circumstances, the court settled this matter and sentenced the defendant to 2 years in prison, suspended for 2 years.

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

Case Number	: 0096/21.OEPMK
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Marcelino Marques Coro
Decision	: Prison sentence of 1 year, suspended for 1 year

On 25 February 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DF who allegedly committed the offence against his wife AQ in Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 23 October 2021, at 1am, the defendant kicked the victim three times on her side which caused the victim to fall to the ground and to suffer pain. Previously the victim returned home after praying because she was watching the children play bingo so the defendant and the victim argued, and the defendant became angry and assaulted the victim.

A medical report from PRADET and photographs from the police were also attached to this case file.

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(d), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed to all of the facts in the indictment, the defendant knew that his acts were no good, the defendant regretted his behaviour, the defendant has four children, this was the first time that he assaulted the victim and was a first time offender, they have reconciled, he lives in his own home, works as a farmer and has no fixed monthly income and the defendant assaulted the victim because the victim returned home late, because the victim was

watching children play bingo and the defendant promised not to repeat such acts against his wife in the future.

Meanwhile, the victim confirmed all of the facts set out in the indictment and added that the defendant was her husband. The victim added that they got together in 2011 and this was the first time that the defendant assaulted the victim.

Final recommendations

The public prosecutor stated that during the examination of evidence there were strong indications that the defendant was guilty of committing the crime of simple offences against physical integrity characterised as domestic violence against his wife. Therefore, the prosecutor had no doubts about the facts written in the indictment with consideration that during the examination of evidence the defendant totally confessed. For this reason the prosecutor requested for the court to impose a prison sentence of 1 year and 6 months, suspended for 2 years.

The public defender requested for the court to apply a lenient sentence with consideration that during the examination of evidence the defendant collaborated with the court, the defendant also acknowledged that such actions were not good, he regretted his behaviour, the defendant has four children, this was the first time he had assaulted the victim and was a first time offender, he has reconciled, lives in his own house, works as a farmer and has no fixed monthly income, and the defendant kicked the victim because she returned home late and the victim was watching the children play bingo and the defendant promised not to repeat such acts against his wife in the future.

Decision

After evaluating all of the facts, the court found that the defendant kicked the victim three times on her side which caused the victim to fall to the ground and to suffer pain. The court also proved that the defendant committed all of these acts with intent because he wanted to physically assault his wife.

Based on all of the evidence and consideration of the aggravating and mitigating circumstances the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for 1 year.

For more information, please contact:

Ana Paula Marçal

Executive Director of JSMP

Email: ana@jsmp.tl

Telephone: (+670) 33238883 | 77040735

Website: <https://jsmp.tl>

info@jsmp.tl