



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN SISTEMA JUDISIÁRIU

Case Summary
Baucau District Court
December 2018

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. Summary of the trial process at the Baucau District Court

1. Total cases monitored by JSMP: 21

Article	Case Type	Number of cases
Article 145 of the Penal Code (PC) and Articles 2, 3 and 35 (b) of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterised as domestic violence and types of offences categorised as domestic violence	13
Article 154 of the PC	Mistreatment of a spouse	1
Article 257 of the PC	Aggravated abuse of trust	1
Article 259 of the PC	Aggravated property damage	2
Article 243 of the PC	Obstructing public authority	2
Article 207 of the PC	Driving without a licence	1
Article 23 (PC) & Article 139 (PC) Article 20.1 from Law on Bladed weapons No. 5/2017.	Aggravated attempted homicide with a bladed weapon	1
Total		21

2. Total decisions monitored by JSMP: 18

Type of decision	Number of cases
Prison sentence (Article 66)	1
Suspension of execution of a prison sentence (Article 68 of the PC)	14
Fine (Article 67 of the PC)	2
Acquitted	1

Total	18
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3. Total ongoing cases based on JSMP monitoring: 3

Descriptive summary of decisions handed down in cases that were monitored by JSMP:

1. Crime of simple offences against physical integrity characterised as domestic violence

Case No. : 0002/17.LALMAR
Composition of the Court : Single Judge
Judge : Ersilia de Jesus
Prosecutor : Ivonia M. Guterres
Public Defender : Antonio Fernandes
Type of penalty : 6 months in prison, suspended for 1 year

On 3 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MASP who allegedly committed the offence against his wife in Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 2 August 2017 at 8pm the defendant hit the victim twice on her back. These acts caused the victim to suffer redness 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 that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that the facts charged by the prosecutor were all true, and the defendant has reconciled with the victim, regretted his actions, and since then the defendant has not hit the victim, and was a first time offender. The victim maintained all of the facts in the indictment but also stated that since the incident the defendant has not hit her.

Final recommendations

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. For this reason the prosecutor requested for the court to impose a prison sentence of 6 months, suspended for 1 year.

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

Decision

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Based on 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. Driving without a licence

Case No. : 0060/18.BCSTR
Composition of the Court : Single Judge
Judge : José Gonsalves
Prosecutor : Ivonia M. Guterres
Public Defender : Antonio Fernandes
Type of penalty : Fine

On 3 December the Baucau District Court announced its decision in a case of driving without a licence involving the defendant Rogerio Freitas da Cruz who allegedly committed the offence against the State of Timor-Leste in in Tirilolo Village, Baucau Sub-District, Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 29 July 2018, at 8am, the defendant was riding a meo motorcycle with the number plate E 3402 Tls on a public road and collided with a minibus. When police arrived at the scene they conducted a check and found that the defendant did not have a driving licence.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence.

Presentation of evidence

During the trial, the defendant used his right to remain silent. The witness Carlos Freitas Cabral who is a member of the traffic police testified that the incident occurred when a bus and motorcycle were involved in a collision, and the witness and his colleagues went to the scene to conduct a check and discovered that the defendant did not have a driving licence.

Final recommendations

The public prosecutor stated that based on the evidence that was proven the defendant was guilty of committing the crime of driving without a licence and the defendant knew that he did not have a driving licence but he was riding a motorcycle on a public road. For this reason the prosecutor requested for the court to impose a prison sentence of 2 years, suspended for 3 years, against the defendant.

The public defender stated that during the examination of evidence the defendant chose to remain silent, and therefore he requested for the court to impose a fair penalty against the defendant.

Decision

The court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven, the court ordered the defendant to pay a fine of

US\$ 60 to be paid in daily instalments of 50 cents for 30 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

3. Crime of mistreatment of a spouse

Case No. : 0005/17. LALMR
Composition of the Court : Panel
Judges : Afonso Carmona
Ersilia de Jesus
Hugo da Cruz Pui
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Jose M. Guterres
Type of penalty : 2 years in prison, suspended for 2 years

On 5 December 2018 the Baucau District Court conducted a hearing to announce its decision in a case of mistreatment of a spouse involving the defendant JdO who allegedly committed the offence against his wife in Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 19 November 2017, at approximately 4.00pm, the defendant and the victim argued because the defendant suspected the victim of having another man, and the defendant punched the victim in the stomach, kicked the victim in the thigh and the victim fell to the ground, and then the defendant twisted the victim's leg. This was not the first time that the defendant hit the victim, because he had done it many times before. On an unspecified date in 2017 the defendant hit and kicked the victim.

Previously, on an unspecified date in 2016, the defendant punched the victim many times on the back of the neck.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 - 6 years in prison as well as Articles 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts in the indictment, and stated that he started living together with the victim in 1995, and they have 9 children. The defendant added that after the incident on 19 November 2017 the victim went to live with her family and the defendant asked the victim to come back, but the victim no longer wanted to live with the defendant and the nine children are living together with the defendant and the defendant is supporting them. Also, the defendant stated that he regretted his actions and was a first time offender.

The victim confirmed all of the facts in the indictment and also stated that at the time of the last incident the victim decided that she no longer wanted to live with the defendant, because while they were living together the defendant always assaulted the victim.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of mistreatment against the victim based on the confession of the defendant and the statement of the victim, and the prosecutor stated that since they have been living together the defendant always assaulted the victim, so the victim decided to live separately from the defendant. For this reason the prosecutor requested for the court to impose a prison sentence of 2 years, suspended for 3 years against the defendant.

The public defender stated that the defendant confessed all of the facts set out in the indictment, wanted to reconcile with the victim, but the victim did not want to, and he regretted his actions, and was a first time offender. Therefore the prosecutor requested for the court to impose a fair penalty against the defendant.

Decision

The court found the defendant guilty of committing the crime against the victim. Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions and was a first time offender, the court concluded this matter and imposed a prison sentence of 2 years against the defendant, suspended for 2 years.

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

Case No. : 0053/17.BCBCV
Composition of the Court : Single Judge
Judge : Ersilia de Jesus
Prosecutor : Gustavo A. M. da Silva
Public Defender : Antonio Fernandes
Type of penalty : 6 months in prison, suspended for 1 year

On 10 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FF who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 28 August 2017, at 6pm, the defendant and the victim argued, when the defendant asked the victim to give him some money for the car, but the victim said she didn't know about that so the defendant slapped the victim twice in the face and caused her to suffer a bloody nose and a black eye. The defendant then kicked the victim in the chest and caused the victim to suffer severe pain to her chest.

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, 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 and stated that he regretted his actions, has reconciled with the victim, and promised not to reoffend against the victim in the future.

The victim maintained all of the facts in the indictment and stated that after the event she reconciled with the defendant and the defendant has not hit her again.

Final recommendations

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. To deter the defendant from repeating such crimes in the future, the prosecutor requested for the court to use its conviction to punish the defendant.

The public defender requested for the court to apply a fair punishment against the defendant, because the defendant confessed, regretted his actions and promised not to reoffend against the victim.

Decision

The court found that the defendant kicked the victim in the back and grabbed the victim by the hair and yanked her back and forth, and this caused the victim to fall to the ground. Based on 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.

5. Crime of aggravated abuse of trust

Case No.	: 0025/16.PDBAU
Composition of the Court	: Panel
Judges	: José Gonsalves Afonso Carmona Jose Escurial
Prosecutor	: Gustavo A. M. da Silva
Public Defender	: Antonio Fernandes
Type of penalty	: Acquitted

On 14 December 2018 the Baucau District Court announced its decision in a case of aggravated abuse of trust involving the defendant Manuel da Gama against the political party Fretili Mudanca, in Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 17 January 2016, the defendant and the coordinator of the political party Fretili Mudanca accepted a Honda mega pro motorcycle with number plate H.2195 designated for the political party from the president of the party in Dili valued at US\$2,000. After receiving the motorcycle the defendant did not use it for party activities, but rather for personal interests. When the president of the party asked the defendant to hand over the motorcycle, the defendant did not do so and continued to use it for personal interests.

The public prosecutor alleged that the defendant violated Article 257 of the Penal Code on aggravated abuse of trust that carries a maximum penalty of 2 - 8 years in prison or a fine.

Presentation of evidence

During the trial, the defendant stated that he was the National Political Commissioner and coordinator of the Fretilin Mudanca political party in Lautem District. On 17 January 2016 the defendant and the witness received a motorcycle at the national party headquarters in Dili. After receiving the motorcycle the defendant used it for party activities, however the witness and his other colleagues were affiliated with another party, and he has no relationship with the political party Fretilin Mudanca based on an instruction received by the defendant. The defendant also stated that he was a first time offender.

The witness Calistro stated that he and the defendant received the motorcycle at the national party headquarters of Fretilin Mudanca in Dili. When they returned to Lautem the defendant did not give the motorcycle back to the witness and party activities were not carried out, because the witness lost contact with the defendant and the witness did not know what activities the defendant was using the motorcycle for.

Final recommendations

The public prosecutor stated that during the examination of evidence the defendant and witness gave conflicting statements, and therefore the prosecutor requested for the court to convict the defendant based on the discretion of the court.

The public defender requested for the court to acquit the defendant from the charges, because the witness himself held no position in the political party and the defendant also told the court that the defendant used the motorcycle for party activities.

Decision

After evaluating all of the facts the court did not find enough evidence to prove this crime, so the court decided to acquit the defendant from the charges.

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

Case No.	: 0103/18. BCBCV
Composition of the Court	: Single judge
Judge	: Afonso Carmona
Prosecutor	: Ivonia Maria Guterres
Public Defender	: Jose M. Guterres
Type of penalty	: 9 months in prison, suspended for 2 years

On 14 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DdCB who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 26 June 2018 at 8pm the defendant slapped the victim once in the region of her eye and caused the victim to fall to the ground. The victim stood up and was going to pick up her child and run to a neighbour's house, but the defendant did not allow her, and they fought over the child and a telephone, and the defendant then kicked the victim twice in the region of her left eye.

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, and has reconciled with the victim, but now they are living separately. The defendant also stated that previously the defendant committed a similar crime and the court imposed a fine against the defendant. The defendant also promised that in the future he would not commit any such crimes against the victim.

The victim confirmed all of the facts in the indictment and stated that she has not reconciled with the defendant because she did not want to live with the defendant, because while they were living together the defendant always assaulted the victim and after this incident the defendant did not meet his obligations as the head of the family.

Final recommendations

The prosecutor maintained the charges and stated that the defendant had no regret for his actions because previously the court convicted the defendant for the same crime and the victim also did not want to live with the defendant. The defendant always assaulted the victim, despite the fact he was supposed to protect her. For this reason the prosecutor requested for the court to impose a prison sentence of 6 months, suspended for 2 years.

The public defender requested for the court to apply a fair punishment against the defendant, with consideration of the mitigating circumstances because the defendant confessed, regretted his actions, and promised not to reoffend in the future.

Decision

The court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on this evidence, the court concluded the matter and sentenced the defendant to 9 months in prison, suspended for 2 years, and ordered him to pay court costs of US\$20.

7. Crime of Simple offences against physical integrity characterised as domestic violence

Case No.	: 0032/18. MNMNT
Composition of the Court	: Single judge
Judge	: José Gonsalves
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Jose M. Guterres
Type of penalty	: Fine

On 17 December 2018 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 AMR who allegedly committed the offence against his wife in Manatuto District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 30 May 2018 the defendant and the victim argued because the defendant suspected the victim of having a romantic relationship with another man. Then the defendant punched the victim once in the back and kicked the victim on her side and grabbed her by the hair and yanked her from side to side.

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 victim returned from the police station he reconciled with the victim and apologised to her. The defendant stated that he was a first time offender, regretted his actions and promised he would not commit any further crimes against any person in the future. In addition the defendant also stated that that he is a driver with a monthly income of US\$120.

The victim maintained all of the facts in the indictment and stated that after the event she immediately reconciled with the defendant.

Final recommendations

The prosecutor argued that the defendant is supposed to provide proper protection to the victim. Therefore the prosecutor stated that even though the defendant completely confessed to the facts set out in the indictment and regretted his actions, the prosecutor still requested for the court to impose a prison sentence of four months, suspended for one year, and ordered the defendant to pay court costs of US\$10.

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

Decision

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment of the public prosecutor. Based on the facts that were proven, and consideration of all of the circumstance in this case, the court ordered the defendant to pay a fine of US\$ 90 to be paid in daily instalments of \$ 1.00 for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

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

Case No.	: 0016/18. MNLCL
Composition of the Court	: Single judge
Judge	: José Gonsalves
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Jose M. Guterres
Type of penalty	: 5 months in prison, suspended for 1 year

On 18 December 2018 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 AMRP who allegedly committed the offence against his son JC aged 27 in Manatuto District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 4 September 2018, at 7.30pm, the defendant told the victim to tie up the rooster, but the victim didn't want to, so the defendant approached the victim and punched him once in the mouth, and punched the victim twice on the right side of his head and slapped the victim once in the region of his right eye. These acts caused the victim to suffer injuries to his mouth.

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 totally confessed all of the facts set out in the indictment, the defendant also stated that one day after the incident he reconciled with victim, regretted his actions, and until now has not hit the defendant again, and he is a first time offender.

The victim maintained all of the facts in the indictment and stated that since the incident the defendant has not hit the victim.

Final recommendations

The prosecutor believed that the defendant was guilty of committing the crime against the victim based on the defendant's confession and the statement of the victim. For this reason he requested for the court to impose a prison sentence of 3 months, suspended for 1 year.

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 the prosecutor requested for the court to impose a fine against the defendant, based on his economic circumstances.

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of all of the charges set out in the indictment of the public prosecutor, namely that he committed physical assault against his son. Based on these considerations, the court concluded the matter and sentenced the defendant to 5 months in prison, suspended for 1 year, and ordered him to pay court costs of US\$10.

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

Case No.	: 0035/18. PDBAU
Composition of the Court	: Single judge
Judge	: José Gonsalves
Prosecutor	: Luis H. Rangel da Cruz

Public Defender : Jose M. Guterres
Type of penalty : 5 months in prison, suspended for 1 year

On 18 December 2018 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 BMGC who allegedly committed the offence against her husband in Manatuto District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 16 September 2017, at 3pm, the victim went looking for the defendant who was catching shrimp in the river. After catching some shrimp the victim told the defendant to go home, because their place was a long way away and their child was sick. On the way home the defendant swore at the victim, so the victim tipped out all of the shrimp that they had collected, so the defendant threw a rock at the victim's head and caused an injury and heavy bleeding, and the victim was then treated at the Laleia 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.

Presentation of evidence

During the trial the defendant confessed to all of the facts in the indictment and stated that after this incident the victim went to stay with his family in Lalini Viqueque for eight months and the defendant contacted the victim via telephone, and then the defendant and the victim reconciled.

The defendant stated that she was a first time offender, regretted her actions and promised not to commit any further crimes against the victim in the future. The victim maintained all of the facts set out in the indictment. The victim also stated that after this incident he went to live with his family in Lalini Viqueque for eight months, and then he reconciled with the defendant and they are now living together.

Final recommendations

Based on her confession, the prosecutor stated that the defendant was guilty of committing the crime against the victim. The public prosecutor maintained the charges and requested for the court to impose a prison sentence of 3 months, suspended for 1 year against the defendant.

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

Decision

The court found that the defendant threw a rock at the victim and the victim suffered an injury to his head and received treatment at the health centre. Based on the facts that were proven, including consideration of all of the circumstances, the court sentenced the defendant to 3 months in prison, suspended for 1 year.

10. Crime of obstructing public authority

Case No. : 0003/17. LALRO.
Composition of the Court : Panel
Judges : Jose Escurial
 José Gonsalves
 Hugo da Cruz Pui
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Jose M. Guterres
Type of penalty : 2 years in prison, suspended for 2 years

On 19 December 2018 the Baucau District Court announced its decision in a crime of obstructing a public authority involving the defendants Julio Pinto and Fortunato Pinto and the victim, police officer Thomas da Costa, in Luro Sub-District, Lospalos District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 25 April 2017, at 10.30am, the victim who is a police officer, intervened in a problem involving some young people from Barikafa Village and Kotamutu Village. When the victim identified the young people who were causing the problem, the defendants Fortunato Pinto and Julio Pinto suddenly appeared with a machete and were going to slash the victim, but they did not manage to do so because the victim raised his baton and struck the hand of the defendant Fortunato Pinto and the machete fell to the ground. When the defendant Julio Pinto went to get the machete that had fallen to the ground, the defendant saw other police officers priming their pistols so the defendants Julio Pinto and Fortunato Pinto fled the scene. The defendants' actions impeded the police from carrying out their functions.

The public prosecutor accused the defendant of violating Article 243.1 of the Penal Code on obstructing public authority that carries a penalty of 2-6 years in prison.

Presentation of evidence

During the trial the defendant Julio Pinto stated that at that time he did not know the people who were attacking each other and suddenly the police grabbed his younger brother Mariano, so the defendant asked the police what his younger brother had done wrong. The defendant stated that he saw his younger brother Fortunato Pinto holding a machete, so the defendant took the machete, and was not going to slash the police officer. The defendant Fortunato Pinto stated that the machete was not his, but rather his brother in law had put in in the car because he was going to participate in a cultural ceremony, and did not intend to slash a police officer. The victim maintained all of the facts set out in the indictment.

The witness Fernando da Gama testified that the witness was on top of the car and saw the victim use his baton to strike the defendant Fortunato Pinto twice on the hand and as a result the machete fell to the ground and the witness grabbed the machete.

Final recommendations

The public prosecutor stated that even though the defendants tried to lie to the court, the victim confirmed the facts that were reinforced by the witness. Therefore the prosecutor stated that the

defendants were guilty of impeding the work of the police who were identifying what was going on at the time. The public prosecutor maintained the charges and requested for the court to impose a prison sentence of 2 years, suspended for 2 years, against the defendants.

The public defender stated that based on the statement of the defendants, they had no intention to impede the work of the police. Therefore he requested for the court to provide justice for the defendants.

Decision

After evaluating all of the facts, the court found the defendants guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven during the trial, the court concluded the matter and sentenced the defendants to 2 years in prison, suspended for 2 years.

11. Crime of obstructing a public authority

Case No.	: 0011/17. VQWTL
Composition of the Court	: Panel
Judges	: Jose Escurial José Gonsalves Hugo da Cruz Pui
Prosecutor	: Domingos Goveia Barreto
Public Defender	: Alexandrina de Sousa (female lawyer from ECM)
Type of penalty	: 2 years in prison, suspended for 2 years

On 19 December 2018 the Baucau District Court announced its decision in a crime of obstructing a public authority involving the defendant Luis Francisco and the victim, who was an EDTL worker, Joao Z. de Jesus dos Santos, in Uatulari Sub-District, Viqueque District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 30 May 2017 the victim who was the head of inspection and several technicians were conducting an inspection in Karau-balun Village. During the inspection the victim and his team were disconnecting an illegal power line connected to three houses, including the house of the defendant. The defendant's younger brother rang the defendant and the defendant arrived at the house and punched the victim once on his left cheek. This act caused the victim and his EDTL team to stop their inspection.

The public prosecutor accused the defendant of violating Article 243.1 of the Penal Code on obstructing a public authority that carries a penalty of 2-6 years in prison.

Presentation of evidence

During the trial the defendant confessed to all of the facts in the indictment. The defendant stated that he committed this act against the victim, because when the victims were conducting the inspection they did not inform the defendant. The defendant stated that he was a first time offender, regretted his actions and promised not to commit any further crimes in the future.

The victim confirmed all of the facts in the indictment and stated that because of the assault committed by the defendant the EDTL team did not complete their inspection.

The witness Flacido da Silva, who is the neighbour of the defendant, testified that when EDTL were conducting the inspection and found that the defendant had an illegal power line so the team disconnected it, and suddenly the defendant appeared and punched the victim and the EDTL team stopped their inspection.

Final recommendations

The public prosecutor stated that the confession of the defendant and the statements of the victim and the witness showed that the defendant was guilty of committing the crime of obstructing a public authority or namely that the defendant's actions caused the victim and his EDTL team to stop their work. The public prosecutor maintained the charges and requested for the court to impose a prison sentence of 2 years and 6 months, suspended for 3 years and 6 months against the defendant.

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 the public defender 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 based on the facts set out in the indictment. Based on the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 2 years.

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

Case No.	: 0538/13. PDBAU
Composition of the Court	: Single judge
Judge	: Jose Escurial
Prosecutor	: Domingos Goveia Barreto
Public Defender	: Jose M. Guterres
Type of penalty	: 3 months in prison, suspended for 1 year

On 19 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JV (absent) who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 27 October 2013, at midnight, the defendant punched the victim on her right shoulder and the defendant took a mattress and slept outside so the victim told him that he should sleep inside because it was late at night and the defendant then pushed the victim to the ground.

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, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the court did not hear the statement of the defendant, because the defendant was absent. The victim maintained all of the facts in the indictment and also stated that since the incident the defendant has not returned to the house and the victim does not know where he is.

Final recommendations

The public prosecutor stated that, even though the defendant was absent, the victim confirmed all of the facts in the indictment, meaning that the defendant committed the acts against the victim. After this incident the defendant and victim have been living separately, however the prosecutor requested for the court to impose a prison sentence of six months, suspended for one year, against the defendant.

The public defender stated that the trial was conducted in the absence of the defendant, because the his whereabouts were unknown, but based on the examination of evidence the public defender requested for the court to apply an appropriate punishment against the defendant.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on 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.

13. Crime of simple offences against physical integrity characterised as domestic violence

Case No.	: 0122/18. BCBCV
Composition of the Court	: Single judge
Judge	: Jose Escurial
Prosecutor	: Gustavo A. M. da Silva
Public Defender	: Jose M. Guterres
Type of penalty	: 1 year in prison, suspended for 1 year

On 20 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant NDSF who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 17 September 2018, at 8.00pm, after dinner the victim saw a message appear on the defendant's telephone saying "I'm heavily pregnant." After seeing the message the defendant and the victim argued, and the defendant kicked the victim on her side, punched the victim in the forehead and the victim suffered pain and swelling to her side and forehead. The defendant then entered the bedroom to grab a knife to stab the victim, but did not do so because the defendant stopped himself.

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, 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 that this was the first time he had hit the victim, and was a first time offender. The defendant also stated that he regretted his actions, has reconciled with the victim, and promised that in the future he would not commit any crimes against the victim. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The prosecutor believed that the defendant was guilty of committing the physical assault against the victim based on the defendant's confession and the testimony of the victim. Therefore the public prosecutor maintained the charges and requested for the court to use its conviction to impose the correct penalty.

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

Decision

The court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender and has reconciled with the victim, the court concluded this case and imposed a prison sentence of 1 year against the defendant, suspended for 1 year.

14. Crime of Simple offences against physical integrity characterised as domestic violence

Case No.	: 0054/18.BCSIC
Composition of the Court	: Single judge
Judge	: Jose Escurial
Prosecutor	: Gustavo A. M. da Silva
Public Defender	: Jose M. Guterres
Type of penalty	: 6 months in prison, suspended for 1 year

On 20 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant Jd who allegedly committed the offence against his son CB, aged 29, in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 30 August 2018, at 4.00pm, the defendant took a piece of wood and struck the victim six times on his left and right knees, and struck the victim on his left and right shoulders and struck the victim once on his leg and caused the victim to suffer an injury to his leg.

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 completely confessed to all of the facts in the indictment. The defendant told the court that she committed the assault because the victim hit the defendant's chicken and swore at the defendant. The defendant also stated that she regretted his actions and has reconciled with the victim. The victim maintained the facts in the indictment and stated that he has reconciled with the defendant.

Final recommendations

The public prosecutor maintained the charges against the defendant and stated that she was guilty of committing the crime against the victim and therefore requested for the court to use its conviction to convict the defendant.

The public defender requested for the court to apply a fair punishment against the defendant, with consideration of the mitigating circumstances because the defendant confessed, regretted her actions, and has reconciled with the victim.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted her actions, has reconciled with the victim, and was a first time offender, the court concluded this case and imposed a prison sentence of 6 months against the defendant, suspended for 1 year.

15. Crime of simple offences against physical integrity characterised as domestic violence

Case No.	: 0300/13.PDBAU.
Composition of the Court	: Single judge
Judge	: Jose Escurial
Prosecutor	: Domingos Goveia Barreto
Public Defender	: Jose M. Guterres
Type of penalty	: 6 months in prison, suspended for 1 year

On 20 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CF who allegedly committed the offence against his wife (absent) in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 5 June 2013, at 4.00pm, the victim was asleep in the bedroom and was giving milk to their young child. Suddenly the defendant, who was drunk, pulled the victim's hair, punched and kicked the victim multiple times in the back and side and caused the victim to suffer pain and swelling to her back and side.

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 completely confessed to the facts set out in the indictment and stated that after this incident the victim ran away with their child and has not come back and the defendant also has been looking for the victim and his child but has not found them. The defendant stated that he regretted his actions and promised that in the future he would not commit any crimes.

Final recommendations

The prosecutor maintained the charges and stated that the defendant was guilty of committing the crime against the victim, even though the victim's whereabouts are unknown (absent), even though the defendant confessed all of the facts. For this reason he requested for the court to impose a prison sentence of 4 months, suspended for 1 year.

The public defender requested for the court to apply a fair punishment against the defendant, with consideration of the mitigating circumstances because the defendant confessed, regretted his actions, and promised not to reoffend in the future.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on 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.

16. Crime of Simple offences against physical integrity characterised as domestic violence

Case No.	: 0048/18. BCBCV
Composition of the Court	: Single judge
Judge	: Jose Escurial
Prosecutor	: Domingos Goveia Barreto
Public Defender	: Jose M. Guterres
Type of penalty	: 6 years in prison, suspended for 1 year

On 20 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MSdS who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 20 March 2018 at 6.30pm the defendant punched the victim once in the forehead, punched the victim once on the back of the neck and punched the victim on her back.

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, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts in the indictment, the defendant reconciled with the victim and now are living together as wife and husband, and since then he has not hit the victim. The defendant regretted his actions and was a first time offender.

The victim confirmed all of the facts in the indictment and stated that as the result of this incident she slept one night at a Safe House in Baucau. On the next day the police took the victim to the house and she immediately reconciled with the defendant and until now the defendant has not hit the victim.

Final recommendations

The public prosecutor stated that the defendant committed the crime against the victim and also considered the mitigating circumstances such as the defendant confessed and regretted his actions. However, to deter the defendant from committing such crimes in the future, the public prosecutor requested for the court to sentence the defendant to 4 months in prison, suspended for 1 year.

The public defender stated that the defendant confessed, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore the public defender 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 based on the facts set out in the indictment. Based on 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.

17. Aggravated attempted homicide with a bladed weapon

Case No.	: 0059/17.LASIK
Composition of the Court	: Panel
Judges	: Jose Quintão Antonio Fonseca Hugo da Cruz Pui
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Sidonio M. Sarmiento
Type of penalty	: 7 years and 6 months in prison

On 20 December 2018 the Baucau District Court, through the mobile court in Manatuto District, announced its decision in a case of attempted homicide with a bladed weapon involving the defendant Juvencio Soares against his own younger brother Bazilio da Costa in Ira-ara Village, Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 2 November 2017 the defendant and the victim argued and the defendant told the victim that “If you mess with me I will chop your mum's private parts and your wife's private parts into a million pieces.” After this the victim turned to walk away and the defendant went inside to get a sword and slashed the victim once on the shoulder and once on the head and once on the back. The defendant's assault caused the victim to lose consciousness and fall to the ground and the victim also suffered injuries to his shoulder, head and back.

The prosecutor accused the defendant of violating Article 139 of the Penal Code on the crime of aggravated homicide pursuant to Article 23 of the Penal Code and Article 20.1 of the Law on Bladed Weapons No. 5/2017.

Presentation of evidence

During the trial the defendant confessed to all of the facts in the indictment and stated that after this incident the defendant handed himself into the police. The defendant stated that he was a first time offender, regretted his actions because he had hurt his own younger brother promised not to commit any further crimes in the future. The victim maintained all of the facts in the indictment and stated that he has reconciled with the defendant.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim and therefore he asked for the court to sentence the defendant to 4 years in prison.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, has reconciled with the victim, and was a first time offender. Therefore the public defender requested for the court to impose a fair sentence for the crime of attempted homicide and for the crime of using a bladed weapon the public defender requested for the court to use its discretion to convict the defendant.

Decision

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and was a first time offender, the court concluded this matter and imposed a prison sentence of 6 years against the defendant for the crime of attempted homicide. For the crime of using a bladed weapon the court imposed a prison sentence of four years and three months against the defendant. The court accumulated the sentence for the two crimes and sentenced the defendant to seven years and six months in prison.

18. Crime of simple offences against physical integrity characterised as domestic violence

Case No.	: 0067/17.BCSIC
Composition of the Court	: Single judge
Judge	: Ersilia de Jesus
Prosecutor	: Remizia de Fatima da Silva
Public Defender	: Antonio Fernandes
Type of penalty	: 6 months imprisonment, suspended for 1 year and 6 months

On 21 December 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CB who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 6 September 2017, at 8.00pm, the defendant and the victim argued and the defendant told the victim to leave the house, but the victim did not want to. Then the defendant punched the victim once in the bicep, and the defendant threw a coconut at the victim and struck her on the side of her body and punched the victim once in the stomach. Then the victim ran away from the house and took the two children and went to stay at her friend's house for three weeks and then went to stay at her parent's house in Dili.

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, 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, and said that this was his first offence since they have been living together. The defendant also stated that he regretted his actions, has reconciled with the victim, and promised that in the future he would not commit any crimes against the victim. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant and now they are living together as husband and wife.

Final recommendations

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. The prosecutor added that cases of domestic violence continue to increase, so to deter these crimes from happening in the future, the prosecutor requested for the court to impose a prison sentence of one year, suspended for six months.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, was a first time offender and has reconciled with the victim. Therefore the public defender 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 based on the facts set out in the indictment. Based on the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 6 months.

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