



Case Summary
Baucau District Court
September 2021

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 number of cases monitored by JSMP: 10

Articles	Case Type	Total Number
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 characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence (DV) and Article 36 on domestic violence as a public crime)	5
Article 177 (1) of the PC	Sexual abuse of a minor	2
Article 171 of the PC	Sexual coercion	1
23, 138 of the PC, Article 23, Article 20 (1), Article 2.2 (f) of the Law on Bladed Weapons	Attempted homicide characterized as domestic violence and use of bladed weapon	1
Article 139 (c,d,h) of	Aggravated homicide characterized as domestic	1

the PC and Articles 2, 3, and 35 (b) of the LADV and Article 20 (1), Article 2.2 (f) of the Law on Bladed Weapons and Article 157 of the PC on threats	violence, bladed weapons and threats	
Total		10

2. Total decisions monitored by JSMP: 4

Type of decision	Articles	Total Number
Suspension of execution of a prison sentence	Article 68 of the PC	1
Fine	Article 67 of the PC	2
Penalty of admonishment	Article 82 of the PC	1
Total		4

3. Total ongoing cases based on JSMP monitoring: 6

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

Case Number : 0031/21. BCBCV
Composition of the Court : Single Judge
Judge : José António d. Escurial,
Prosecutor : Bartolomeu de Araújo
Defence : Germano Guterres Ramos
Decision : Prison sentence of 3 years, suspended for years

On 16 September 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant EX who allegedly committed the offence against his daughter in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 9 April 2021, at 2pm, the defendant grabbed the victim by the hair and threw her on the ground and then punched the victim once in the back. Prior to this assault, the victim was angry at her younger sibling, because the dog bit a chicken, so the defendant committed the assault against the victim.

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 partially confessed to the facts alleged in the indictment and stated that the defendant pulled the victim's hair and threw the victim on the ground, however he did not punch the victim in the back, and the defendant committed these acts because the victim was angry at her younger sibling. The defendant also stated that he regretted his actions, and promised that he would repeat such acts in the future.

The victim maintained all of the facts in the indictment and stated that she has not reconciled with the defendant, because the defendant was living with his second wife and has not been looking after the victim and her younger siblings.

Final recommendations

The public prosecutor stated that even though the defendant partially confessed that he grabbed the victim by the hair and threw her on the ground, but he did not punch the victim in the back, however the victim provided confirmation about the alleged facts, therefore the prosecutor said that all of the facts were proven. The prosecutor also said that the defendant has two wives and the defendant, in his capacity as a father, should have remained impartial and resolved their problems, rather than using the children of his second wife to commit an assault against the victim who is the child from his first wife and until now the victim has not reconciled with the defendant because the defendant's behaviour upset the victim. For this reason, the public prosecutor requested for the court to impose a prison sentence of 1 month, suspended for 1 year.

The public defender requested for the court to apply a lenient punishment against the defendant, considering that the defendant admitted to his actions, regretted his actions and promised not to reoffend against the victim in the future.

Decision

After evaluating all of the facts, the court found that the defendant grabbed the victim by the hair and threw her on the ground and then punched the victim in the back.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant regretted his actions, and promised not to repeat such acts in the future, the court concluded this case and imposed a prison sentence of 3 years against the defendant, suspended for 3 years.

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

Case Number : 0049/21. BCBCV
Composition of the Court : Single Judge
Judge : Florencia Freitas

Prosecutor : Bartolomeu de Araújo
Defence : António Fernandes
Decision : Fine of US\$ 45.00

On 27 September 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant MSB who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 1 June 2021, at 1am, the defendant punched the victim once in the back and grabbed her by the throat and threw her on the bed and slapped the victim once on her left cheek and slapped her once in the mouth which caused an injury and bleeding. Prior to this assault, the defendant and the victim argued because the defendant came home late, therefore the victim questioned the defendant and he responded with swear words and then the assault occurred.

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 used his right to remain silent. The victim confirmed all of the facts in the indictment and stated that this was the first time that the defendant hit the victim and after this incident the victim received treatment from PRADET and stayed in a shelter for a week, and when she went home they immediately reconciled and the defendant accepted the victim as his wife and they have been living together as husband and wife and since this incident the defendant has not hit the victim.

Final recommendations

The public prosecutor stated that even though the defendant chose the right to remain silent, however the victim confirmed all of the facts alleged in the indictment, therefore the prosecutor said that all of the facts had been proven and to prevent the defendant from repeating such acts in the future the public prosecutor requested for the court to impose a prison sentence of one month, suspended for one year.

Meanwhile, the public defender stated that although the defendant chose the right to be silent, the victim said that this was the first time that the defendant had committed a crime against the victim and when the victim returned from the shelter they immediately reconciled, and the defendant accepted the victim as his wife and they have been living together and since the incident the defendant has not assaulted the victim, therefore the public defender requested for the court to impose a lenient penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim once in the back and grabbed her by the throat and threw her on the bed, slapped her once on her left cheek and slapped her once in the mouth.

Based on the facts that were proven, and with consideration of the mitigating circumstances, namely the defendant was a first time offender, and after the incident when the victim returned from the shelter they immediately reconciled, and until now the defendant has not reoffended against the victim, therefore the court concluded this matter and ordered the defendant to pay a fine of US\$45 to be paid in instalments of US\$ 0.50 per day for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

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

Case Number	: 0041/21. MNMNT
Composition of the Court	: Single Judge
Judge	: Florencia Freitas
Prosecutor	: Bartolomeu de Araújo
Defence	: José M. C. Guterres
Decision	: Fine of US\$ 270.00

On 27 September 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant AA who allegedly committed the offence against his wife in Manatuto Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 15 March 2021, at 10am, the defendant punched the victim once on her right ribs, punched her once on her left ribs and then punched her once in the chest. Prior to this assault, the defendant and the victim argued because the defendant was suspicious that the victim was with another man, and then the assault took place.

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 used his right to remain silent. Meanwhile the victim confirmed all of the facts alleged in the indictment, and the victim also stated she is a member of the PNTL who works at the Manatuto Municipality Command and the defendant is an entrepreneur who stays in Dili and after this incident they reconciled and this was the first time that the defendant offended against the victim and after this incident the defendant did not hit the victim.

Final recommendations

The public prosecutor stated that even though the defendant chose the right to be silent, however the victim confirmed all of the facts alleged in the indictment, therefore to prevent the defendant from repeating such acts in the future and to prevent him from becoming accustomed to using violence against the victim or other person, the public prosecutor requested for the court to impose a prison sentence of one month, suspended for one year.

Also, the defence stated that the defendant chose the right to be silent, however the victim said that she has reconciled with the defendant, this was the first time that the defendant committed a crime against the victim and after this incident the defendant did not hit the victim, therefore the defence requested for the court to impose a fair and just penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim once on her right ribs, punched the victim once on her left ribs, and then punched the victim once in the chest.

Based on the facts that were proven, and consideration of the mitigating circumstances, namely this was the first time that the defendant offended against the victim, the victim has reconciled with the defendant, the court concluded this matter and ordered the defendant to pay a fine of US\$270 to be paid in instalments of US\$3.00 per day for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

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

Case Number : 0007/20. MNLLB
Composition of the Court : Single Judge
Judge : José António d. Escurial,
Prosecutor : Remizia de Fátima da Silva
Defence : Sidonio Maria Sarmento
Decision : Penalty of admonishment

On 28 September 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant FS who allegedly committed the offence against his wife in Manatuto Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 14 May 2020, at 6pm, their child was crying because he was hungry, therefore the defendant became angry and kicked a saucepan that the victim was using to cook rice porridge and knocked it over and it spilt on the victims' legs and hands and caused her injuries to her legs and hands and the family took the victim to the Laklubar Health Centre for treatment.

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 stated that at the time of the incident the defendant and the victim were drinking palm wine at home and they were drunk, therefore the defendant tripped over the fireplace where the victim was cooking rice porridge in a saucepan which spilt the rice porridge onto the hands and legs of the victim. The defendant also stated that he regretted his actions, has reconciled with the victim before their two families, this was the first time he had offended since they have been together for many years and he works as a farmer with no fixed income.

The victim confirmed all of the facts alleged in the indictment and also confirmed the defendant's statement that she and the defendant were drinking palm wine and were drunk, and the victim said that this was the first time the defendant had committed a crime against her and they resolved the matter before their two families and the defendant has not hit the victim again.

Final recommendations

The public prosecutor stated that even though they have reconciled and have continued living together, to deter the defendant from repeating such actions against the victim in the future and so he is not accustomed to using violence against the victim, the prosecutor requested for the court to impose a prison sentence of six months suspended for one year.

The public defender stated that that the defendant confessed all of the facts, has reconciled with the victim, regretted his actions, and they have been together for a very long time and this was the first time that he had assaulted the victim, therefore the public defender requested for the court to issue an appropriate penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant kicked the saucepan that the victim was using to cook rice porridge and the rice porridge spilled onto the hands and legs of the victim and caused injuries.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant regretted his actions, reconciled with the victim and this was the first time he committed a crime against the victim, the court concluded this case and issued an admonishment against the defendant.

For more information, please contact:

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