



**Case Summary**  
**Suai 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 Suai District Court**

**1. Total number of cases monitored by JSMP: 17**

Articles	Case Type	Total Number
Article 145 of the Penal Code (PC) and Articles 2, 3 and 35 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)	2
Article 177 of the PC	Sexual abuse of a minor characterized as domestic violence	1
Articles 145 & 258 (PC)	Crime of simple offences against physical integrity and property damage	1
Article 316 of the PC	Smuggling	4
Articles 1757, 1758, 1759, 1762, 1765, 1786, 1782, 1804, 1805 of the Civil Code (CS)	Exercise of parental authority	1
Article 145 of the PC	Simple offences against physical integrity	1

Article 260 of the PC	Property damage with violence	1
Articles 138 & 145 (PC)	Property damage and simple offences against physical integrity	1
Article 181 of the PC	Sexual exhibitionism	1
Article 207 of the PC	Driving without a license	1
Article 20 (1) of the Law on Bladed Weapons	Bladed weapons	2
Article 252 of the PC	Aggravated larceny	1
<b>Total</b>		<b>17</b>

## 2. Total number of decisions monitored by JSMP: 10

Types of penalties	Articles	Total Number
Suspension of execution of a prison sentence	Article 68 of the PC	2
Fine	Article 67 of the PC	2
Endorsed Agreement	Article 216 of the CPC	4
Fine and acquittal	Article 67 of the PC	1
<b>Total</b>		<b>10</b>

## 3. Total cases adjourned based on JSMP monitoring: 0

## 4. Total ongoing cases based on JSMP monitoring: 7

### 1. Crime of property damage and violence

Case Number : 0053/16.CVSUI  
Composition of the Court : Panel  
Judges : Benjamin Barros, Samuel d. C. Pacheco and  
Patriçia de Araújo Fatima Barreto Magno Xavier  
Prosecutor : José Elu  
Defence : Domingos dos Santos  
Decision : Endorsing withdrawal of complaint

On 3 February 2022 the Suai District Court conducted a hearing to announce its decision in a case of property damage and violence involving the defendants Almerio da

Costa and Ana da Resuriação and the victims Regina d. R and Santana d. R, in Covalima Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 3 January 2016, at 12pm, the victim Regina da Resuriação was returning from church, and the witnesses Linda, Carla and Yanti were carrying the victim's pig that the husband of the defendant Ana da Resuriação had stoned to death.

Then at 3pm the victim went to the home of the defendants Almerio do Carmo and Ana da Resuriação with the aim of telling them to pay for the victim's pig that had been stoned to death by the defendant's husband. However the defendant Ana da Resuriação had an argument with the victim and said that she did not want to pay, therefore they wrestled and the defendant Ana took a broom and struck the victim RdR twice on the legs, and the defendant Almerio took a stalk of palm leaves and struck the victim Regina many times on her left shoulder until the stalk disintegrated, and when the victim Santana told the defendant not to hit Regina, the defendant Almerido took another stalk of palm leaves and struck the victim once in the head and punched the victim once above the eye and took a piece of wood and was going to hit the victim Santana again but Almerio Gusmão took the piece of wood from him so he did not manage to hit the victim.

The public prosecutor alleged that the defendant violated Article 260 of the Penal Code on property damage with use of violence that carries a maximum penalty of 4-12 years in prison.

### **Examination of evidence**

During the trial the defendants confessed to all of the facts in the indictment and stated that five months after this incident the male defendant and the victim reconciled and US\$50.00 was paid for the victim's pig because it had been stoned to death by the defendant's husband. The defendants stated that they were first time offenders, regretted their behaviour and have had no further problems with the victims.

Also, the victim confirmed all of the facts in the indictment and stated that they have reconciled and the pig that was stoned to death by the defendant's husband had been paid for. The victim Santana also confirmed all of the facts and stated that they have reconciled and there have been no further problems.

Before hearing the final recommendations, the court decided that this crime did not fulfil the elements of the crime of property damage and violence pursuant to Article 260 of the PC, therefore the panel of judges amended the charge from the crime of property

damage and violence to Article 145 of the PC on simple offences against physical integrity, and indicated that this trial would be heard by a single judge.

Even though the defendants had reconciled, however the court asked the defendants to reconcile in front of the court, therefore the defendants and the victims reconciled and the defendants promised not to repeat such acts in the future.

### **Final recommendations**

The prosecutor and public defender requested for the court to endorse this process and acquit the defendants from the charges.

### **Decision**

Based on the amicable agreement made between the parties, the court endorsed the agreement and acquitted the defendants.

## **2. Civil case of regulation of the exercise of parental authority**

Case Number	: 0003/20 CVTDS
Composition of the Court	: Single Judge
Judge	: José Maria Araújo
Prosecutor	: Rafael Jeronimo Gusmão
Defence	: Angelmo Pinto
Decision	: Endorsing withdrawal of complaint

On 9 February 2022 the Suai District Court attempted conciliation in a case of regulation of the exercise of parental authority involving CVAC aged 7 and GRAC aged 5 and the male respondent FCP and female respondent FIFA, who are the child's parents, in Covalima Municipality.

### **Circumstances and background**

On an unspecified date in 2019, the male respondent was working in Natarbora, however on the weekends he always visited his two children in Suai, however on an unspecified date, on the weekend, the male respondent visited his children, when he returned he did not inform the female respondent and the children and the respondent took all of his clothes back to Natarbora. After this the male respondent did not visit his children and did not look after the needs of his children, and then the two families sat together to resolve the issue but there was no solution, so the male respondent and the female respondent separated. Therefore, the prosecutor representing the minors filed a case against the male respondent to look after the needs of the minors. The male respondent is a Doctor with a monthly salary of US\$ 573.00.

This case related to the exercise of parental authority pursuant to Articles 1757, 1758(1), 1759, 1762, 1765, 1786, 1787(2), 1782, 1804 and 1805 of the Civil Code on the responsibility of parents for minors.

### **Attempted conciliation**

During the attempted conciliation the female respondent told the court that the minors are now living with the female respondent however the male respondent has never provided alimony, therefore the female respondent requested that every month he should provide alimony for the two minors totalling US\$400.00, however the male defendant requested for this amount to be reduced, because he earns US\$573.00 per month, therefore the court asked the female respondent to reduce the amount of alimony based on the request of the male respondent, so the female respondent agreed to the request of the court for the male respondent to provide US\$150.00 a month for the two minors. The male respondent accepted this request and stated that he was willing to provide alimony to the minors every month totalling US\$150.00 starting in March 2022, that would be paid into the female respondent's bank account, however the male respondent demanded his right to visitation because he said that he had no problem if the two minors continue to live with the female respondent, so the female respondent and the male respondent agreed for the two minors to continue living with the female respondent and agreed that the male respondent was free to visit the two minors.

### **Final recommendations**

The prosecutor representing the two minors requested for the court to endorse the agreement made by the two respondents regarding how they will look after the children.

### **Decision**

Based on the agreement made by the two parties regarding alimony, residence, and visiting schedule, the court concluded this matter and endorsed the agreement.

### **3. Driving without a license**

Case Number	: 0075/19.PDSUA
Composition of the Court	: Single Judge
Judge	: Benjamin Barros
Prosecutor	: José Elo
Defence	: Albano Maia
Decision	: Fine of US\$ 60.00

On 10 February 2022 the Suai District Court announced its decision in a case of driving without a licence involving the defendant Luis Magno who allegedly committed the offence against the State of Timor-Leste in Ainaro Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 26 December 2017, at 09:40am, the defendant was travelling on a motorcycle on a public road and the traffic police conducted a check and found out 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 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 in the indictment and stated that he regretted his actions and after the incident the defendant did not ride the motorcycle for six months. After the defendant obtained a driving licence he rode the motorcycle and the defendant also stated that he had been driving a motorcycle since 2009, however without a driving licence.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the alleged crime, based on the confession of the defendant, and considering the economic conditions of the defendant, the prosecutor requested for the court to order the defendant to pay a fine of US\$120.00.

The public defender requested for the court to issue the defendant with an admonishment, because the defendant confessed, regretted his actions and after this incident did not ride a motorcycle and now the defendant has a driving licence.

### **Decision**

After evaluating all of the facts, the court found that the defendant was riding a motorcycle on a public road, and the traffic police conducted a check and found out that the defendant did not have a driving licence

Based on the facts that were proven and also considering the mitigating circumstances namely that the defendant confessed, regretted his actions, therefore the court concluded this matter and imposed a fine of US\$60.00, to be paid in daily instalments of US\$1.00 for 60 days. If the defendant does not pay this fine, the defendant will spend 60 days in prison as an alternative punishment.

#### **4. Crime of smuggling**

Case Number : 0005/18.CVSLL  
Composition of the Court : Panel  
Judges : Patricia de Araujo. F. B. M. Xavier, Samuel d. C. Pacheco and Benjamin Barros.  
Prosecutor : José Elo  
Defence : Albano Maia  
Decision : Fine of US\$ 30.00

On 15 February 2022 the Suai District Court announced its decision in a case of smuggling involving the defendants Quintino Moniz and Gregorio do Nascimento who allegedly committed the offence against the State of Timor-Leste in Covalima Municipality.

#### **Charges of the Prosecutor**

The public prosecutor alleged that on 28 February 2018, at 7:00am, the two defendants entered into a contract with an Indonesian citizen to purchase 35 litres of fuel in four jerrycans and the defendants purchased each jerrycan at the price of US\$25.00, totalling US\$100.00 for the four jerrycans. When the two defendants received the four jerrycans and were carrying them so they could be sold in Suia Vila, a member of the Border Patrol Unit (UPF) saw them and confiscated the goods because the defendants purchased the goods illegally and the defendants were taken for interrogation at the Salele Post, because the actions of the defendants caused the State to suffer a loss.

The public prosecutor alleged that the defendants violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

#### **Examination of evidence**

During the trial the two defendants totally confessed to all of the facts in the indictment, and the defendants stated that they did not bring in the fuel for sale, but to fill a chainsaw to cut seven cubic metres of timber to build a customary house. The defendants also stated that this was the first time they brought in fuel and after this incident they have not brought in any more fuel, they were first time offenders, regretted their behaviour and promised not to repeat these acts in the future.

#### **Final recommendations**

The prosecutor found the defendants guilty of committing the crime of smuggling based on the facts set out in the indictment without a licence therefore they did not pay tax to the State and caused the State to suffer a loss. Based on this evidence, the prosecutor

requested for the court to impose a prison sentence on the defendants of two years and six months, suspended for three years, and to order the defendants to pay court costs and for the confiscated goods to be given to the State.

Meanwhile, the defence stated that the defendants confessed to all of the facts and regretted their behaviour and would not repeat such acts in the future, therefore the defence requested for the court to impose a fine on the defendants.

## **Decision**

After evaluating all of the facts, the court found that the two defendants entered into a contract with an Indonesian citizen to purchase 35 litres of fuel in four jerrycans and each jerrycan was purchased for the price of US\$25.00, totalling US\$100.00 for the four jerrycans, to import them illegally into Timor-Leste.

Based on the facts that were proven, and with consideration of the mitigating circumstances, namely the defendants confessed, regretted their actions, were first time offenders, therefore the court concluded this matter and ordered the two defendants to pay a fine of US\$30 to be paid in instalments of US 50 cents per day for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendants do not pay this fine.

## **5. Crime of smuggling**

Case Number	: 0004/19.CVSL
Composition of the Court	: Panel
Judges	: Patricia de Araujo. F. B. M. Xavier, Samuel da Costa Pacheco and Benjamin Barros.
Prosecutor	: Rafael Jeronimo Gusmão
Defence	: Albino de Jesus Pereira
Decision	: Prison sentence of 3 years, suspended for 4 years

On 15 February 2022 the Suai District Court announced its decision in a case of smuggling involving the defendants Boavida Ximenes, Jacinto Amaral and Maximilianos who allegedly committed the offence against the State of Timor-Leste in Covalima Municipality.

## **Charges of the Prosecutor**

The public prosecutor alleged that on 30 January 2019, at 4pm, the defendants illegally imported 35 litres of fuel in three jerrycans through mota masin and the defendants purchased the three jerrycans totalling US\$100.00, then the defendants took the fuel to be sold in Suai Villa, however when they were on the road near Nikir the Border Patrol

Unit conducted a check and confiscated the goods and took the defendants for interrogation at the UPF post in Casabauk.

The public prosecutor alleged that the defendants violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

### **Examination of evidence**

During the trial, the three defendants totally confessed to all of the facts, and stated that they were forced to conduct these activities, and they also stated that they were first time offenders, regretted their behaviour and promised not to repeat these acts in the future.

The prosecutor requested for the court not to hear testimony from the witnesses because the defendants confessed all of the alleged facts in the indictment.

### **Final recommendations**

The prosecutor stated that even though the defendants confessed all of the facts, the crime of smuggling is very high along the border areas, therefore to prevent these crimes from occurring in the future, the prosecutor requested for the court to impose a prison sentence of two years on the defendants, suspended for two years, and for the confiscated goods to be given to the State.

Meanwhile, the public defender requested for the court to impose a lenient penalty against the defendants because the defendants confessed, regretted their actions and were first time offenders.

### **Decision**

After evaluating all of the facts, the court proved that the defendants illegally imported 35 litres of fuel in three jerrycans through mota masin and the defendants purchased the three jerrycans totalling US\$100.00, however when they were on the road near Nikir the Border Patrol Unit conducted a check and confiscated the goods and took the defendants for interrogation at the UPF post in Casabauk.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendants confessed, regretted their actions, and were first time offenders, the court concluded this case and imposed a prison sentence of 3 years against the defendants, suspended for 4 years, and the confiscated goods were given to the State.

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

Case Number : 0025/20.CVSL

Composition of the Court : Single Judge  
Judge : Patricia de Araujo. F. B. M. Xavier  
Prosecutor : Rafael Jeronimo Gusmão  
Defence : Albino de Jesus Pereira  
Decision : 6 months in prison, suspended for 1 year

On 15 February 2022 the Suai District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant LX who allegedly committed the offence against his wife, in Covalima Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 11 April 2020, at 6pm the defendant punched the victim once in the nose, punched her many times on the left side of her head, and these acts caused the victim to suffer a bloody nose. Prior to this assault the victim swore at her daughter so the defendant defended his daughter by assaulting the victim. A forensic report was 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), 35(b) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the defendant confessed all of the facts in the indictment, and said that the victim swore at their daughter, so the defendant became angry and committed these acts against the victim, and the defendant said that they have separated and he regretted his actions.

The victim maintained the facts in the indictment and stated that they have separated.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime of simple offences against physical integrity characterized as domestic violence against his former wife based on the confession of the defendant and the confirmation of the victim, and therefore the prosecution requested for the court to impose a suspended prison sentence.

The public defender requested for the court to impose a lenient penalty against the defendant because the defendant confessed and regretted his actions.

## **Decision**

After evaluating all of the facts, the court found that the defendant punched the victim in the nose and punched her many times on the left side of her head and these acts caused the victim to suffer a bloody nose. Based on the facts that were proven, and consideration of all of the mitigating circumstances, namely that the defendant was a first time offender, the court concluded this matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

### **7. Crime of simple offences against physical integrity and property damage**

Case Number : 0039/21 VCSUI  
Composition of the Court : Single Judge  
Judge : Samuel da Costa Pacheco  
Prosecutor : Rafael Jeronimo Gusmão  
Defence : Domingos dos Santos  
Decision : Fine of US\$120.00 and acquitted

On 16 February 2022 the Suai District Court announced its decision in a case of simple offences against physical integrity involving the defendant DBGL who allegedly committed the offence against the victim CM in Covalima District.

#### **Charges of the Prosecutor**

The public prosecutor alleged that on 9 May 2021, at approximately 2pm, the defendant punched the victim once in the nose which caused bleeding. Prior to this assault, the defendant and the victim argued because the defendant had removed all of the victim's seedlings that had been planted along the boundary line between the defendant and the victim, and after the incident the sub-village chief and parents sat together to resolve this problem in accordance with East Timorese tradition, however the defendant did not want to and committed these acts 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 Article 258 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine.

#### **Examination of evidence**

Before proceeding to the examination of evidence the court attempted conciliation in this case pursuant to Article 262 of the Criminal Procedure Code, however the victim did not want to, and therefore the court proceeded with the trial.

During the trial, the defendant confessed all of the facts in the indictment and stated that the defendant removed the seedlings planted by the victim, because she had planted some in the defendant's plantation, and the defendant also stated that they were going to resolve the matter between their families however the victim said things about the defendant's schooling and veterans and said that his behaviour was no good so the defendant got angry and committed the act against the victim. The defendant added that he regretted his actions and promised not to repeat such behaviour against the victim or other person in the future. The defendant is a public servant with the environmental department with a monthly salary of US\$240.00 and a veteran's salary of US\$250.00, and the defendant said he was a first time offender.

The victim confirmed all of the facts in the indictment and stated that she did not want to reconcile with the defendant, and the victim said that the seedlings removed by the defendant were planted on the victim's side of the boundary and were not planted on the defendant's land.

The witness Jose Godino, who is the sub-village chief, testified that the defendant and the victim had a problem relating to the removal of seedlings planted by the victim along the boundary, and the seedlings were planted on the defendant's land and when they were trying to resolve the problem the defendant became angry and punched the victim once in the nose which caused bleeding. The witness testified that the victim planted seedlings on the defendant's land.

### **Final recommendations**

The public prosecutor believed that the defendant was guilty of committing the act against the victim and therefore he asked for the court to sentence the defendant to 1 year in prison for the first crime and 2 years in prison for the second crime, and for the penalty to suspended for two years.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant confessed, regretted his actions and was a first time offender.

### **Decision**

After evaluating all of the facts, the court found that the defendant punched the victim once in the nose which caused bleeding. Prior to the assault, the defendant and the victim argued because the defendant removed all of the victim's seedlings that had been planted along the boundary between the defendant and the victim.

Based on the facts that were proven and also considering the mitigating circumstances namely that the defendant confessed, regretted his actions, and was a first time

offender, therefore the court concluded this matter and imposed a fine of US\$120.00, to be paid in daily instalments of US\$1.00 for 120 days. If the defendant does not pay this fine, the defendant will spend 20 days in prison as an alternative punishment.

## **8. Crime of simple offences against physical integrity**

Case Number : 0013/18.CVSUI  
Composition of the Court : Single Judge  
Judge : Samuel da Costa Pacheco  
Prosecutor : Rafael Jeronimo Gusmão  
Defence : Domingos dos Santos  
Decision : Endorsing withdrawal of complaint

On 17 February 2022 the Suai District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Fernando Moniz and the victim Paolo Moniz, in Covalima District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 14 June 2018, at 12.00pm, the defendant punched the victim twice on his left cheek, and kicked the victim once in the back. Prior to this assault, the defendant and the victim argued because the defendant's rooster went missing, so the defendant became angry and assaulted the victim.

The 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 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the victim was willing to withdraw his complaint against the defendant, however he requested for the defendant not to repeat such acts against the victim or other person in the future. The defendant accepted the victim's request and was willing to go along with what the victim said, and the defendant also stated that he regretted his actions and promised not to repeat such behaviour in the future.

### **Final recommendations**

The prosecutor and public defender requested for the court to endorse the amicable agreement between the defendant and the victim and to acquit the defendant from the charges.

## **Decision**

Based on the amicable agreement between the two parties, the Court decided to validate the settlement.

## **9. Crime of sexual exhibitionism**

Case Number : 0085/19.PDSUA  
Composition of the Court : Single Judge  
Judge : Benjamin Barros  
Prosecutor : Rafael Jeronimo Gusmão  
Defence : Angelmo Pinto  
Decision : Endorsed withdrawal of complaint

On 21 February 2022, the Suai District Court conducted a hearing to attempt conciliation for the crime of sexual exhibitionism involving the defendant JM and the victim AdSdJ, in Manufahi Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 2 March 2019, at 9:00am, the victim was washing clothes at a spring surrounded by some long grass, and the defendant followed the victim and was naked and asked the victim “Are you washing clothes?” and the victim said “I am washing clothes”, and then the defendant went back, however after approximately five minutes the defendant went back to the spring and showed his genitals to the victim and then the defendant returned. Then fifteen minutes later the defendant went to the spring and again showed his genitals to the victim, and so the victim said to the defendant “when I go home I will tell your wife” and when she came back from the spring the victim told the defendant’s wife and then made a complaint to the police.

The public prosecutor alleged that the defendant violated Article 181 of the Penal Code on sexual exhibitionism with that carries a maximum penalty of 3 years in prison or a fine.

### **Examination of evidence**

Pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the victim presented to the court a request for an amicable settlement that previously the defendant and the victim made in accordance with East Timorese custom and during the attempted conciliation the court was unable to hear the defendant's statement, because the defendant tested positive to Covid-19 and was in quarantine.

### **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 request for an amicable settlement that the victim submitted to the court, even though the defendant was not present during the trial because he tested positive to Covid-19 and was in quarantine, the court endorsed the amicable agreement submitted by the victim and said it would inform the defendant to make an objection within five days, and if the defendant makes an objection to the withdrawal of the matter, then the court would notify the parties to proceed to trial, however if the defendant has no objection within five days then the withdrawal will be valid.

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

Case Number	: 0102/18.PDSUA
Composition of the Court	: Single Judge
Judge	: Benjamin Barros
Prosecutor	: José Elo
Defence	: Angelmo Pinto
Decision	: Acquitted

On 28 February 2022 the Suai District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant NSP who allegedly committed the offence against his former wife, in Covalima Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on an unspecified date in 2015, the defendant punched the victim once in the mouth and choked her which caused the victim to suffer pain to her mouth and throat. Prior to this assault, the defendant and the victim argued because they were both still living with the victim's parents, and the defendant asked if

he and the victim could live somewhere else, but the victim did not want to, so the assault occurred.

Then on 25 August 2018, at 9pm, the defendant punched the victim three times on her left cheek which caused bleeding. Prior to this assault the defendant and victim argued because their child fell over, so the defendant committed these acts 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(a), 35(b) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the defendant partially confessed to the facts in the indictment and the defendant stated that regarding the incident in 2015, the defendant had to attend a wake however the victim and her family did not participate in the wake and when it was over the defendant came back and told the victim that he wanted to live separately from the victim's parents however the victim did not want to so the defendant became angry and committed the acts against the victim. In relation to the incident that occurred on 25-08-2018, the defendant stated that he did not commit the acts against the victim.

Also, the victim confirmed all of the facts in the indictment and stated that they have been living separately and the defendant never visited his child and did not give any money for this child.

The witness JdJA who is the older brother of the victim, testified that in relation to the incidents that allegedly occurred in 2015 and 2018 the witness heard that the defendant and the victim had problems, but he did not witness anything. The witness testified that on one occasion their daughter and her grandmother went to mass and were on the way home when the defendant took his daughter from her grandmother but the witness was at the scene so he took the child back from the defendant.

The witness JS, who is the cousin of the defendant, testified that when the incident occurred he was with the defendant and they were going to go to Dili and passed the victim's house with the intention that the defendant was going to give money to his child, however when the defendant was going to give some money, the defendant and the victim argued and the defendant did not manage to give any money to his child, because she was afraid and ran away, and the witness said that he did not see the defendant hit the victim.

### **Final recommendations**

The public prosecutor stated that during the trial the defendant partially confessed to the facts in the indictment, and the defendant said that in 2015 he did hit the victim once however he denied the incident in 2018, however the victim confirmed all of the facts in the indictment. Meanwhile the witnesses said that the defendant and the victim had a problem however they did not see the defendant physically assault the victim. For this reason the prosecutor said that the defendant's behaviour fulfilled the elements of the crime of simple offences against physical integrity, therefore he requested for the court to impose a prison sentence of 1 year, suspended for 1 year.

The public defender said that the defendant only admitted the facts relating to his actions and this was reinforced by the witness, therefore he requested for the court to issue an admonishment against the defendant.

### **Decision**

After evaluating all of the facts during the trial, the court decided that regarding the incident in 2015 the matter had lapsed. Regarding the alleged crime that occurred in 2018, the court found the defendant not guilty, and therefore the court concluded the matter and acquitted the defendant from the charges.

### **For more information, please contact:**

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