

IN THE HIGH COURT OF FIJI  
CRIMINAL JURISDICTION  
AT LAUTOKA

CRIMINAL CASE: HAC 71 OF 2015

BETWEEN : STATE

AND : ETONIA BOSE

Counsel : Mrs. S. Kiran for State  
Mr. R. Kumar for the Accused

Date of Hearing : 7th of December 2015

Date of Sentence : 2nd of February 2016

SENTENCE

1. You Etonia Bose, is charged with one count of "Assault Causing Actual Bodily Harm" contrary to Section 275 of the Crimes Decree 44 of 2009, which carries a maximum penalty of five years imprisonment period.
2. You pleaded guilty for this offence on the 7th of December 2015 on your own free will and accord. I am satisfied that you have properly comprehended the legal effects of your plea and your plea was voluntary and free from any influence. Accordingly, I now convict you for this offence.
3. It was revealed in the summary of facts, which you accepted in the open court, that you punched the victim once on his face. The victim fall on the ground due to the impact of the said punch.

4. The tariff for the offence of Assault Occasioning Actual Bodily Harm range from a suspended sentence where there is a degree of provocation and no weapon used to 9 months imprisonment for the more serious cases of assault. (Gounder J in Jonetani Sereka v The State 2008, FJHC 88, HAA027, 2008), (State v Anjula Devi, Crim Case No 04 of 1998) (Basa v State [2014] FJHC 518; HAA12.2014 (15 July 2014) The severity of the harm and the amount of culpability are the determining factor in the starting point.
5. The summary of facts do not reveal the nature of injuries that the victim had sustained. The accused was asked by someone who was having an argument with the victim to go and assault the victim. There are no weapons being used. Having considered the above discussed facts, I select five (5) months as the starting point.
6. The summary of facts do not provide any aggravating circumstances of this offence. Hence, I now turn onto the mitigatory factors.
7. I consider following mitigatory factors for your favour,
  - i) Early plea of guilty,
  - ii) First offender,
  - iii) 25 years of old,
8. Having considered the above discussed mitigatory factors, I reduce two (2) months to reach three (3) months of imprisonment period.

9. You are a young first offender. You save the court time by pleading guilty for this offence and accepted your culpability and responsibility for this crime. In view of these facts, it is my opinion that a non-custodial sentence would appropriately provide you an opportunity to rehabilitate yourself into a law abiding citizen. I accordingly suspend your sentence for a period of two years.
10. Accordingly, Mr. Etonia Bose, I sentence you three (3) months imprisonment for the offence of " Assault Causing Actual Bodily Harm" contrary to Section 275 of the Crimes Decree and suspend it for a period of two (2) years.
11. If you commit any crime during the period of 2 years and found guilty by the court you are liable to be charge and prosecute for an offence in pursuant of section 28 of the Sentencing and Penalties Decree.
12. Thirty (30) days to appeal to the Fiji Court of Appeal.



**R. D. R. Thushara Rajasinghe**

**Judge**

**At Lautoka**

**2nd of February 2016**



**Solicitors : Office of the Director of Public Prosecutions  
Office of Legal Aid Commission**