

IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 265 - 2018

STATE

-v-

REKILALA LODOVU

Before : RM Fotofili L.
For Prosecution : WPC Chand A. [Police Prosecution]
Accused : In Person, Waived Right To Counsel
Date of Sentence : 16th December 2019

SENTENCE

BACKGROUND

1. **REKILALA LODOVU**, you have pleaded guilty to the following charge:

Statement of Offence

ASSAULT OCASSIONING ACTUAL BODILY HARM: Contrary to section 275 of the *Crimes Act of 2009*.

Particulars of Offence

REKILALA LODOVU on the 14th day of September, 2018 at Nanau village in the Western Division assaulted **SAVENACA NIU** thereby causing him actual bodily harm.

2. I am satisfied that your guilty plea and admission in court is voluntary and that you understand the consequences. The evidence also supports your guilty plea.
3. I find you guilty and convict you of the charge.
4. The victim here is 16 years old. You suspected that he was sniffing glue. You asked him what he was doing in the village and then you punched him. A bottle of glue fell from the victim and when you saw the bottle of glue, you punched the victim about 5 more times.

5. The victim was medically examined about 12 hours later after your violence. The medical officer amongst other things, observed a bruise to his lip, there was a bruise to the left side of his head and the left side of his neck was soft.
6. The matter was reported and you were arrested and interviewed by police. You said that you knew the victim but the victim is not from the village and the victim resides in Nadi. You said that you met the victim and you could smell glue on him. You punched him. He ran and while running, a bottle of glue fell from him. You ran after him and caught him and punched him some more. You were really angry as you have seen him give glue to students in the village and some have been given to your brothers.
7. You are a first offender.
8. You have not spent any time in remand for this case.
9. You are 29 years old. You seek forgiveness. You promise that you will not reoffend. You are employed for a Pine company. You look after your parents.

LAW

10. The maximum sentence that is imposable by law for the offence of assault occasioning actual bodily harm is up to 5 years imprisonment.

TARIFF

11. The sentencing tariff for assault occasioning actual bodily harm ranges between a suspended sentence and for more serious cases to 9 months imprisonment depending on the degree of provocation and whether any weapon was used [see for example State v Kalouteretere - Sentence [2018] FJHC 845; HAC 270. 2018 (12 September 2018).

STARTING POINT

12. Considering the objective seriousness of the offence, a 4 month imprisonment term is selected as a starting point.

AGGRAVATING FEATURES

13. The victim was 16 years old or young.
14. You punched him several times.
15. I increase your sentence to 8 months imprisonment.

MITIGATION

16. You are a first offender.
17. I accept that you are remorseful.
18. You have cooperated with police.
19. You have parents to support and you are working.
20. You should not take the law into your own hands. However, I accept that you were frustrated at the time with the suspicion that the victim was giving glue to others in the village.
21. Your sentence is reduced to 3 months imprisonment.

GUILTY PLEA

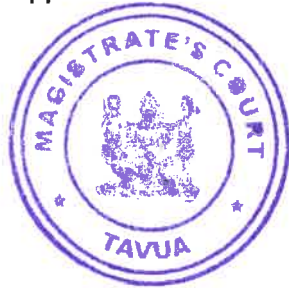
22. You have pleaded guilty early and I will reduce your sentence to 2 months imprisonment.

SUSPENSION

23. I can suspend your imprisonment term either in whole or in part pursuant to section 26 (1) and (2) (b) of the **Sentencing and Penalties Act 2009**.
24. I also take into account the factors outlined in section 4 of the **Sentencing and Penalties Act 2009** when deciding whether or not to suspend your sentence.
25. Your sentence will be aimed at deterrence and to punish you adequately.

SENTENCE

- 26. You are sentenced to 2 months imprisonment.
- 27. You have not spent any time in remand and so your sentence will not be reduced any further.
- 28. I am inclined to suspend your imprisonment term but only in part.
- 29. 1 month and 20 days imprisonment is suspended for the next 18 months.
- 30. Do not commit any other offence punishable with imprisonment in the next 18 months or you risk this 2 months and ~~14~~ ²⁰ days imprisonment held in waiting being activated.
- 31. You will serve 8 days imprisonment, immediately.
- 32. I do not find that any Domestic Violence Order is warranted in your case as I am not satisfied that a domestic relationship exists.
- 33. 28 days to appeal.




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Lisiate T.V. Fotofili
Resident Magistrate

Dated at Tavua this 16th day of December, 2019