

IN THE MAGISTRATES' COURT OF FIJI AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 291 - 2016

STATE

-v-

SEMESA BOKINI

For Prosecution: WPC Chand A. [Police Prosecution]
Accused: In Person, Waived Right To Counsel
Date of Sentence: 8th of April 2019

SENTENCE

BACKGROUND

1. **SEMESA BOKINI**, 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

- SEMESA BOKINI** on the 8th day of December, 2016 at Korovou Village, Tavua in the Western Division assaulted **VIRISILA TAUBUABUA BOKINI** thereby causing her actual bodily harm.
2. I am satisfied that your guilty plea to the charge is voluntary and that you understand the consequence of your plea. The evidence also supports your guilty plea. I have found you guilty.
 3. The victim here is your cousin sister. She was 10 years old at the time. You saw and called her when she was at shop. This was around 7pm. She ran home when she saw you. You followed her to her home. You took a stick and hit her with it causing her injuries.

4. The victim was medically examined about a day later. The medical officer observed amongst other things that there was tenderness to her right elbow and forearm, tenderness to her chest and bruising to her wrist.
5. You were arrested later and interviewed by police. You told police that you saw the victim at the shop and she ran away. You admitted that you hit her with a stick 3 times on her legs.
6. The victim too was present in court on that day you changed your plea as it was for hearing. After you heard her unsworn statement, you accepted that you lied to police. You accept that you did not hit her legs but on the upper part of her body.
7. You are a first offender.
8. You seek forgiveness. You apologized in court to the victim and her mother. You are unmarried and you don't have any children. You were 18 years old at the material time. You said that you hit her as she was out at night.
9. You have spent approximately 42 days in remand which is equivalent to 1 month and 2 weeks.

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 circumstance of your case, a 5 month imprisonment term is selected as a starting point.

AGGRAVATING FEATURES

13. There was a domestic relationship in existence. This was your cousin sister.
14. She was young, being 10 years old at the time.
15. You struck her several times.
16. You used a stick or a weapon.
17. You lied to the police during your caution interview.
18. Your sentence is increased to 11 months imprisonment.

MITIGATION

19. I accept that you are remorseful.
20. I accept that you did not want her hanging around at night at the shop. You just went about dealing with the situation the wrong way.
21. You were young at the time, being 18 years old.
22. You have no previous conviction.
23. Your sentence is reduced to 6 months imprisonment.

GUILTY PLEA

24. You first pleaded not guilty on the 10th of April 2017. Your guilty plea is not early. You changed your plea on the day your trial was fixed which is on the 20th of August 2018.
25. I will still reduce your sentence for pleading guilty nonetheless.
26. Your sentence is reduced to 5 months imprisonment.

SUSPENSION

27. I can suspend your 5 months imprisonment term either in whole or in part pursuant to section 26 (1) and (2) (b) of the Sentencing and Penalties Act 2009.
28. 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.
29. Your sentence will be aimed at deterrence and to punish you adequately.

SENTENCE

30. You are sentenced to 5 months imprisonment.
31. You have spent 1 month and 2 weeks in remand.
32. I consider this as time already served.
33. You have 3 months and 2 weeks imprisonment remaining.
34. I am inclined to suspend this remaining term for the next 16 months.
35. Commit any other offence in the next 16 months and this term held in waiting maybe activated.
36. The DVRO [section 27 standard non-molestation conditions] which was imposed on you and explained to you earlier on the 20th of December 2016 is made final. This is to protect the victim.
37. 28 days to appeal.



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Lisiate T.V. Fotofili
Resident Magistrate

Dated at Tavua this 8th of April 2019