

**IN THE DISTRICT COURT OF NAURU Criminal Case No. 81
OF 2014 and Criminal Case no. 144 of 2014**

CRIMINAL JURISDICTION

REPUBLIC

V

Tion Amwano

Date of hearing 30 March 2016

Date of Sentence 11 April 2016

Mr. Filimoni Lacanivalu for the Republic

Mr. Ravunimase Tangivakatini for the defendant

SENTENCE

1. The defendant has pleaded guilty to two counts of assault causing actual bodily harm contrary to section 339 of the Criminal Code 1899.
2. The first offence occurred on the 1 March 2013 at about 9pm in the night. The victim at that time was 16 years old and the defendant at that time was 19 years old. There is a three years age difference between the victim and the defendant. The facts are that the victim was at the six water tanks area at the golf course at the location when the defendant challenged him to a fight. The defendant then grabbed the victim's neck with both his arms and thrust his knee to the victim's face. The defendant also punched the victim before letting his friends assault him too. The victim was later pulled out from the group and was unconscious. The victim was later taken to the RON Hospital where the following findings were made; the victim was unable to open his mouth fully and the right facial are swollen

(H) at the temporo-mandibular joint area. The victim received soft tissue injury on his right face which was consistent with being kicked and punched in the face. The defendant was arrested, and later admitted to assaulting the victim.

3. The second offence was committed by the defendant on the 12 August 2013. The victim was at that time 44 years old. The defendant threw a stone which hit the victim's face causing him injury. This was between 3 to 4 pm in the afternoon. At that time the victim was carrying his two years old grandson and was talking to three other people. The defendant later ran away but was arrested by the police the same day and admitted to the offence.
4. The defendant pleaded guilty to both offences. I also note in his favour that upon being arrested and interviewed by the police he admitted to committing both offences. I give him credit for the guilty plea that he has entered in the first instance firstly to the police and secondly to the court. This in turn indicates remorse on the part of the defendant. The remorse in turn indicates a good prospect for rehabilitation. I take all these into account as mitigating factors on behalf of the defendant.
5. Both offences were committed in 2013. The offending on the 1st March 2013 would now be more than 3 years and 30 days since he offended and for the offending on the 12 August 2013, it would now be 2 years 7 months and 19 days since the offending. I have noted from the records of the proceedings that the defendant has not been attending court as and when required to do so. So whilst I must take the delay as a mitigating factor I do so bearing in mind that the defendant in not coming to court must also bear some responsibility.

6. In both occasions of offending the attacks on both victims were unprovoked but very dangerous. Grabbing the victim's neck with both his arms and thrusting his knee to the victim's face is a very dangerous act. He also had the strength of numbers with his friends being present and assisted him with the unprovoked assault on the victim. Again taking a stone and throwing it into someone's face is not only dangerous but life threatening. Not only were the victim in danger but his two year old grandson and the other people who were there talking with the victim. This court has time and again reminded those who have come before the court that the use of stones as a weapon is very dangerous. If there is anything that is available everywhere and anywhere and to anyone and everyone it is the stones. The stones are harmless when left alone but dangerous when turned into a weapon. The court has a duty to keep on reminding the community that those who use stones as a weapon to attack others must expect to go to jail if they are caught and brought before the courts.
7. The offence of the 12 August 2013 was committed whilst he was on bail for the offence he committed on the 1st March 2013. This serious as it shows a clear disregard for the law and especially when he was on bail for the offence he committed on 1st March 2013
8. Despite the delay, I am of the view that a short sharp and shocking sentence must be imposed on the defendant for both offences. To remind him and others that unprovoked attacks on others is not right and will not be taken lightly by the courts.
9. Assault Causing Actual Bodily Harm of 1 March 2013- imprisonment for 3 months. Assault Causing Actual Bodily Harm 12 August 2013- imprisonment

for 6 months. Both sentences to be served consecutively. Total term of imprisonment 9 months

Dated this 11 April 2016

A handwritten signature in black ink, appearing to be 'EM' with a checkmark-like flourish extending to the right.

Emma Garo
Resident Magistrate
**District Court of
Nauru, Yaren**