

**IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION**

Criminal Case No: 156 - 2019

STATE

-v-

LEKIMA ROKOLISOA

Before : RM Fotofili L.
For Prosecution : IP Lenaitasi S. [Police Prosecution]
Accused : In Person
Date of Sentence : 11th February 2020

SENTENCE

BACKGROUND

1. **LEKIMA ROKOLISOA**, you have pleaded guilty to the following charge:

Statement of Offence

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

Particulars of Offence

LEKIMA ROKOLISOA on the 13th day of July, 2019 at Tavualevu Village, Tavua in the Western Division assaulted **TITILIA MASI** thereby occasioning her 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 tendered in support of your admission also supports your guilty plea.
3. I find you guilty and convict you of the charge.
4. The victim here is your 28 year old wife. You two argued about the dress she wore to church. You were using a scissors to cut someone's hair. During the argument you

came to your wife and slapped her ear and the right side of her face. When she tried to evade you, the scissors you were holding hit your wife on her right hand.

5. Your wife, the victim was medically examined about 2 hours later after your violence. Amongst other things, the medical officer observed that the right side of her head and her right cheek was mild and tender. There was a 2 x 3cm wide and 2 cm deep cut to her forearm.
6. The matter was reported and you were later arrested and then interviewed under caution by police. You admitted slapping your wife. You said that your wife wanted to get hold of a wooden stick and a cup and in response, you tried to stop her. When trying to stop her, the scissors you were holding grazed her hand. You were upset when she went to drink kava and the following morning she did not prepare breakfast.
7. You are a first offender.
8. You have spent 8 days in remand. I will consider this as time served and I will deduct this from your sentence.
9. You are 35 years old. You have three children and two of them are attending primary school. You seek forgiveness. You are still with the victim.

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 your wife or a domestic relationship existed.
14. You slapped her face.
15. I accept that you did not intend to hit her with the scissors. However, you still carry some responsibility for the consequence of having that sharp object during the time of violence. You grazed her hand with the scissors causing the 2 cm deep laceration.
16. I increase your sentence to 8 months imprisonment.

MITIGATION

17. You are a first offender.
18. You have a family to support.
19. You are remorseful.
20. I accept that some passion must have existed at the time.
21. Your sentence is reduced to 4 months imprisonment.

GUILTY PLEA

22. You have pleaded guilty early and I will reduce your sentence to 2 months and 18 days 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 is to punish you adequately.

SENTENCE

26. You are sentenced to 2 months and 18 days imprisonment.

27. I will deduct 8 days from your sentence for the time you have spent already in remand.

28. You have 2 months and 10 days or 66 days imprisonment remaining.

29. I am inclined to suspend this remaining imprisonment term but only in part.

30. 38 days imprisonment is suspended for the next 18 months.

31. Do not commit any other offence punishable with imprisonment in the next 18 months or you risk this 38 days imprisonment held in waiting being activated.

32. You will serve 28 days imprisonment, immediately.

33. The Domestic Violence Restraining Order [DVRO] with section 27 standard non-molestation which was imposed on you and explained to you on the 15th of July 2019 is made final. This is to protect the victim, your wife forever until the order is cancelled or varied.

34. Do not breach any condition of this DVRO or you may be charged with another offence.

35. 28 days to appeal.



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Lisiate T.V. Fotofili
Resident Magistrate

Dated at Vava'u this 11th day of February, 2020