

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

Criminal Case No: 253 - 2019

STATE

-v-

PAULIASI NAUSARAWA

Before : RM Fotofili L.
For Prosecution : Inspector Naidu C. [Police Prosecution]
Accused : Mr. Samy A. [Legal Aid Commission]
Date of Sentence : 18th February 2020

SENTENCE

BACKGROUND

1. **PAULIASI NAUSARAWA**, you have pleaded guilty to the following charge:

Statement of Offence

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

Particulars of Offence

PAULIASI NAUSARAWA on the 2nd day of November, 2019 at Nasomo, Vatukoula in the Western Division assaulted **ESETA NATURI** whereby 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 your 21 year old wife. An argument arose between the two of you about a new blanket that was provided during a family function or 'Tevutevu'. During

STARTING POINT

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

AGGRAVATING FEATURES

15. The victim was your wife or a domestic relationship existed.
16. You used a weapon, in this case, a piece of firewood.
17. You hit her twice with it.
18. I increase your sentence to 9 months imprisonment.

MITIGATION

19. You have a family to support.
20. You are remorseful.
21. This is your first offence.
22. I accept that some passion and emotion must have existed at the time.
23. You have cooperated with police during your interview.
24. Your sentence is reduced to 4 months imprisonment.

GUILTY PLEA

25. You have pleaded guilty early and I will reduce your sentence to 2 months and 16 days imprisonment.

SUSPENSION

26. 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.
27. 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.
28. Your sentence will be aimed at deterrence and is to punish you adequately.

SENTENCE

29. You have not spent any time in remand and so your sentence will not be reduced any further.
30. You are sentenced to 2 months and 16 days imprisonment.
31. I am inclined to suspend your imprisonment term but only in part.
32. 1 month imprisonment is suspended for the next 18 months.
33. Do not commit any other offence punishable with imprisonment in the next 18 months or you risk this 1 month imprisonment held in waiting being activated.
34. You will serve 1 month and 16 days imprisonment, immediately.
35. The Domestic Violence Restraining Order [DVRO] with section 27 standard non-molestation which was imposed and explained to you on the 9th of November 2019 is finalised against you. This is to protect your wife forever unless the DVRO is cancelled or varied.
36. Do not breach any condition of this DVRO or you may be charged with another offence.
37. 28 days to appeal.



Dated at Tavua this 18th day of February, 2020

.....
Lisiate T.V. Fotofili
Resident Magistrate