

IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 234 - 2019

STATE

-v-

SEVULONI DEWAI

Before : RM Fotofili L.
For Prosecution : WPC Chand A. [Police Prosecution]
Accused : In Person, Waived Right To Counsel
Date of Sentence : 16th June 2020

SENTENCE

BACKGROUND

1. SEVULONI DEWAI, 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

SEVULONI DEWAI on the 17th day of October, 2019 at Nademo, Lowcost, Vatukoula in the Western Division assaulted KULAE BULOLO 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 is your 40 year old wife. You were angry with your son as you two argued about a phone. You wanted to catch your son but you were unsuccessful. You

then got into an argument with your wife and in your anger you punched her face and head several times. You took an empty pot and hit her head once causing her to fall on the floor. You took a cane knife to hit her with it but she cried for help. She ran to the police station and sought for assistance.

5. Your wife, the victim was medically examined about 5 hours later after your violence. Amongst other things, the medical officer observed that there was a 2 cm x 2 cm swelling behind her left ear and abrasion over her left elbow. There was no fracture detected.
6. You were arrested by police and they interviewed you under caution. You admitted arguing with your son about your son taking a phone to school and you did not like your wife taking his side and giving him clothes to run away. You were very angry, you punched your wife on her back, pulled her hair from the kitchen to the sitting room,
7. You are a first offender.
8. You have not spent any time in remand.
9. You are 51 years old. You have reconciled with the victim. You two are still together. You have 6 children. The eldest is 21 years and the youngest is 8 years old. You are a retired security officer. You say that the family relies on you and the eldest of your children is in university. You promise not to re-offend. You knew you were wrong.
10. Your wife, the victim was present in court on the day you pleaded guilty and verifies that you two have apologised to each other.

LAW

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

TARIFF

12. 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

13. Considering the objective seriousness of the offence, a 3 month imprisonment term is selected as a starting point.

AGGRAVATING FEATURES

14. The victim was your wife or a domestic relationship existed.
15. You dragged her by her hair.
16. You punched her head and face several times.
17. You hit her head with a pot.
18. You threatened her with a cane knife.
19. I increase your sentence to 9 months imprisonment.

MITIGATION

20. You are a first offender.
21. You have cooperated with police when interviewed.
22. You have a family to support.
23. You are remorseful.
24. I accept that some passion must have existed at the time.
25. Your sentence is reduced to 5 months imprisonment.

GUILTY PLEA

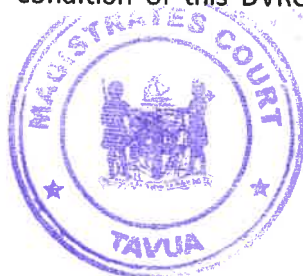
26. You have pleaded guilty early and I will reduce your sentence to 3 months and 10 days imprisonment.

SUSPENSION

27. 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.
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 is to punish you adequately.

SENTENCE

30. No further reduction will be made to your sentence as you did not spend any time in remand.
31. You are sentenced to 3 months and 10 days imprisonment.
32. This will only be suspended in part.
33. 2 months of your imprisonment term will be suspended for the next 18 months.
34. Do not commit any other serious offence or any offence punishable with imprisonment in the next 18 months or you risk this 2 months imprisonment that is held in waiting being activated.
35. You will serve 1 month and 10 days imprisonment immediately.
36. The Domestic Violence Restraining Order [DVRO] with section 27 standard non-molestation which was imposed on you and explained to you on the 18th day of October 2019 is made final. This is to protect the victim, your wife forever until the order is cancelled or varied.
37. Do not breach any condition of this DVRO or you may be charged with another offence.
38. 28 days to appeal.



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Lisiate T.V. Fotofili
Resident Magistrate

Dated at Tavua this 16th day of June, 2020