

IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 50 - 2020

STATE

-v-

MENIUSI VEIKILA

Before : RM Fotofili L.
For Prosecution : A/CPL Chand A. [Police Prosecution]
Accused : In Person
Date of Sentence : 16th February 2021

SENTENCE

BACKGROUND

1. **MENIUSI VEIKILA**, 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

MENIUSI VEIKILA on the 26th day of January, 2020 at Wainivoce, Tavua in the Western Division assaulted **TIMAIMA LANIETA** therefore causing 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 21 year old de-facto wife. It was around lunchtime when you saw a number on your wife's phone. You confronted her about it. A heated argument arose between the two of you. You then punched the victim on her left

eye and her hip three times causing her injuries. You also took a sasa broom and hit her on her shoulder. The victim ran towards the road and you followed her and grabbed her neck and hit her again on her face, hip and shoulder.

5. The victim was medically examined about a day later after your violence. Amongst other things, the medical officer observed that she had a 'black' left eye and there were bruises to her right shoulder and her right shoulder was also swollen.
6. The matter was reported and you were interviewed under caution by police. You admitted that you were at home with your de-facto wife. Your wife's phone rang and there was a man on the other end who said that he wanted to speak to your wife. You said that if he wants to speak to her, he can tell you on the phone. You argued with the man and then the man turned off the call. You confronted your wife about the man who had called. She denied knowing him. Your argument with your wife got heated. You then punched her left eye once. You also hit her hips. You hit her right arm with a sasa broom. You hit her because of the phone call and because of her denial. You admitted that you went after her when she ran towards the road and that is when you grabbed her neck and punched her once on her face and hip. You admitted causing injuries to her left eye. You say the man has called before. You say that your wife is having an affair.
7. This is not your first offence. You have a conviction for theft in 2018 and a conviction for assault occasioning actual bodily harm in 2015.
8. I have also sentenced you earlier today in Tavua CF 173 -19 for assaulting and causing injuries to the same victim and that offence was committed by you on her on the 11th day of July 2019.
9. You have not spent any time in remand.
10. You are 31 years old. You have 2 children. The eldest is now aged 2 years old and the other is about 2 months old now. You seek forgiveness. You promise that you will not reoffend. You have apologised to the victim. You two are still together. Your wife is at home looking after the children. You are a mini bus driver. You promise that this will be your last offence.
11. Your wife the victim was present in court and she verifies that you have apologised to her.

LAW

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

TARIFF

13. 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

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

AGGRAVATING FEATURES

15. The medical report suggests that you committed your violence in the presence of your eldest child. This is hearsay and there is no other admissible or clear evidence that your child was present and even if present, would have understood your violence at the time because of his age. I cannot use the presence of your child as an aggravating factor.
16. However, the victim is your wife. A domestic relationship exists.
17. You hit her several times on the face and hips.
18. You used a sasa broom as a weapon to hit her shoulder.
19. I increase your sentence to 9 months imprisonment.

MITIGATION

20. You cooperated with police during your interview.
21. I accept that you are remorseful.
22. Some passion and emotion must have existed at the time.
23. You have a family to support.

24. Your sentence is reduced to 4 months imprisonment which is equivalent to 112 days imprisonment.

GUILTY PLEA

25. You have pleaded guilty early and I will reduce your sentence to 74 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. **MENIUSI VEIKILA**, your sentence is aimed at deterrence and is to punish you adequately.
30. You are sentenced to 74 days imprisonment.
31. No time was spent by you in remand and so your sentence will not be reduced any further.
32. I am not inclined to suspend your imprisonment term either in part or in whole.
33. You will serve this 74 days imprisonment immediately.
34. I am mindful of the one transaction rule and the totality principle. I am aware of your other case and the sentence I passed on you earlier today in Tavua CF 173 – 19.
35. You will serve your 74 days imprisonment term consecutive to the sentence I imposed on you today in Tavua CF 173 – 19.

36. I cancel the Domestic Violence Restraining Order [DVRO] with section 27 standard non-molestation which was imposed on you and explained to you on the 12th of February 2020 in this case Tavua CF 50 - 20.
37. I have already finalised a DVRO with section 27 conditions on you in your other case Tavua CF 173 – 19. There is no need for multiple DVRO's. One can suffice.
38. 28 days to appeal.



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Lisiate T.V. Fotofili
Resident Magistrate

Dated at TAVUA this 16th day of February, 2021