

In the District Court of Nauru Criminal Case No. 26 and 27 of 2015

Criminal Jurisdiction

Republic

V

Myko Olsson

Mr. Lacanivalu for the Republic

Mr. Sevualoni Valenitabua and Mr. Sevualoni for the defendant

Date of hearing: 9 March 2016

Date of sentence: 16 March 2016

SENTENCE

1. The defendant pleaded guilty to the offence of common assault contrary to section 335 of the Criminal Code 1899. This offence was committed by the defendant on the 17th day of August 2015.
2. The victim in this case is the uncle of Sarah Eoaeo, with whom the defendant was in a de-facto relationship and they had four children. On that day, the defendant went uninvited to see Sarah Eoaeo and after he was informed that the defendant had a knife with him and was fighting with Ms. Eoaeo, the complainant went into the room of Ms. Eoaeo and choked the defendant.
3. By then Ms. Eoaeo had left the room but their son was with the defendant in the room. The complainant took the child but when he came outside the defendant assaulted him.
4. The defendant had pleaded guilty to 1 count of assault occasioning actual bodily harm contrary to section 339 of the

Criminal Code 1899. This offence was committed on the 22nd day of August 2015. The defendant denied using a stone to inflict the wounds on the complainant. So newton hearing was conducted to determine whether or not the defendant used a stone to inflict the wound on the complainant. Following the newton hearing the court determined that the wound to the heard was inflicted by a stone used by the defendant.

Mitigating factors

5. The defendant pleaded guilty and I give him credit for this. He does have prior convictions that also involve violence but in sentencing him I must avoid sentencing him for his past.

Aggravating factors

6. The victim in the assault causing actual bodily harm charge is the sister of Sarah Eoaeo with whom the defendant had been in a de-facto relationship and they have four children. On the night in question, the defendant met Sarah Eoaeo and wanted to speak with her.

7. It is clear from the evidence that the defendant has a history of just walking into the family home whenever he feels like doing so, be it night or day to go and see Ms. Eoaeo. And when Ms. Eoaeo refuses to see him or talk to him, he will force himself and when relatives of Ms. Eoaeo came to her aid he turns out his anger on them. This is clear from what happened in these two instances the subject of both charges to which he had pleaded guilty within a pace of 5 days.

8. An aggravating feature in the offending against Mrs. Roma is that it happened in the night. In addition to this he had also used a stone and kept throwing stones at the complainant until the others came to her rescue. If there is anything that is within everyone's reach and can be easily turned into a weapon, it is the stones. They are everywhere and can be found anywhere and are easily accessible to anyone and everyone. In this instance from his own evidence, one of the stones he used was taken from the complainant's flower garden. He has in effect taken a stone she had used to beautify her surrounding and turned it into a weapon against her. This is serious. Mrs. Roma had also sustained injuries to her head and her 4th index finger was fractured.

9. From the evidence it is clear that the assault on Ms. Roma was because she was protecting her sister from him. And it is

clear from his evidence that he sees Mrs Roma's action as interference with his personal business with Ms. Eoaeo.

10. Domestic violence is not a private affair between husband and wife or a man and a woman or parent and child. This court has a duty to put across the message that domestic violence is everyone's business. Those who step in to protect victims of domestic violence or any sort of violence for that matter must expect to be protected by the court when they themselves become victims of violence and come before the court.

11. It is my view that despite the very powerful submissions pressed on your behalf by Mr. Valenitabua and Mr. Tangivakatini, it is inevitable that an immediate and deterrent custodial sentence must be imposed on you. For the charge of common Assault I sentence you to 4 months imprisonment and for the charge of Assault Causing Actual Bodily harm I sentence you to 8 months imprisonment. Both sentences are to be served consecutively. This means you will go to prison for 12 months

Dated this 16 day of March 2016



Emma Garo
Resident Magistrate

