

**IN THE DISTRICT COURT OF NAURU  
(Criminal Jurisdiction)**

CRIMINAL CASE NO. 152 of 2012

BETWEEN:

**THE REPUBLIC OF NAURU**  
Complainant

AND:

**INGIA BENJAMIN**  
Defendant

*Mr. Livai Sovau for the Republic  
Mr. Ravunimase Tangivakatini for the Defendant*

*Date of hearing: 4<sup>th</sup> October 2016  
Date of Sentence: 4<sup>th</sup> October 2016*

Sentence

1. The defendant pleaded guilty to one count of common assault contrary to section 335 of the Criminal Code 1899.

2. In brief the agreed facts submitted to the Court are:

*"On the 9<sup>th</sup> June 2012, the hit the face of the victim with a walking framed. The defendant and her father who was under the influence of liquor went to the victim's house and were shouting it was their property. The defendant went into the house and went straight to the victim and struck him in the face with the walking frame. When asked why she was hitting the victim who was just a child she replied it's his fault."*<sup>1</sup>

3. The maximum penalty for this offence is one year imprisonment. There has been a delay of 4 years and 4 months in bringing this matter to some finality. There is no reason given by the prosecution to explain this delay. A perusal of the court file shows that this matter was first

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<sup>1</sup> Summary of brief facts submitted to the Court.

called up in Court on the 23<sup>rd</sup> of October 2012<sup>2</sup>, and was adjourned to the 30 October 2012, when a bench warrant was issued for the arrest of the defendant.<sup>3</sup> On the 5<sup>th</sup> December 2012, the defendant appeared in court and was released on bail and matter adjourned to 10<sup>th</sup> December 2012 and continued to be adjourned. It was set for trial today but the defendant changed her plea to a guilty plea. The failure to execute bench warrants issued by the court largely contributes to the delay in bringing this matter to some finality. In the absence of an explanation being given by the prosecution for this delay, the delay must be taken to be inordinate.

4. The guilty plea entered in the first instance must attract a reduction of sentence in the defendant's favor. In Mitigation Mr. Tangivakatini has submitted that there has been an unreasonable delay for this a relatively minor offence. I agree that the delay is unreasonable, but I fail to see how hitting a 10 year old child with a walking frame could be said to be a relatively minor offending. I disagree with this aspect of the submission by the defence. It is also clear that she the use of a frame as a weapon is serious. The defendant is a first offender and is unemployed. The defendant is unemployed and is caring for her very sick father.
5. But for the delay in bringing this matter to some finality, I would not hesitate to impose an immediate custodial sentence. And even if I am to impose an immediate custodial sentence now, had this matter been dealt with earlier, any such sentence that could have been imposed would have been served and the defendant would have moved on with her life. I sentence the defendant to keep the peace and be of good behavior at a sum of \$50.00 for 12 months.

Dated this 4 day of October 2016



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<sup>2</sup> Record of Court proceedings 23.10.2012 and 30.10.2012

<sup>3</sup> Record of court proceedings 30.10.2012