

IN THE SUPREME COURT OF SAMOA

HELD AT APIA

BETWEEN: POLICE

Informant

A N D: HOWARD MAUMASI of  
Mulifanua

Defendant

Counsel: M Leung Wai for police  
R T Faaiuso for defendant

Sentencing: 2 November 1998

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ORAL SENTENCING OF SAPOLU, CJ

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Now in assessing what should be the appropriate penalty in this case, the Court takes into account what counsel has placed before the Court in mitigation of penalty on behalf of the defendant. In particular that the defendant has at this early stage pleaded guilty to the charge against him. That he is a first offender and that the victim in this case was his adopted son and he may live for the rest of his life with the thought that his own son has passed away as a result of his actions. The Court also takes into account what is set out in the report of the Probation Service regarding the background and history of the defendant.

On the other hand, the Court also takes into account the seriousness of the charge against the defendant, the fact that the victim was quite young. He is only 8 years of age but the beating that was given to him in my view was quite cruel of a parent given the age of the victim. I am somewhat concerned about the cases involving child abuse by adoptive or step parents which are starting to come before the Court where the victims are not the natural children of these parents but are either adopted or step children.

In this case for example, what the victim or the deceased had done was bad but when you consider his age, 8 years old, you would expect a child of such age to do silly things sometimes but that would not justify cruelty from a parent. If a parent does a cruel act and that causes the death of his child, the law says that is manslaughter and it carries a maximum penalty of life imprisonment. I also take into account what counsel for the defendant has submitted to the Court that the defendant is truly remorseful for what has happened. In weighing all these matters including the guilty plea to the charge, the defendant is convicted and sentenced to three and a half (3½) years imprisonment.

*T. F. M. Salala*  
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**CHIEF JUSTICE**

**Solicitors:**

R T Faaiuasos's Law Firm, Tamaligi for defendant  
Attorney General's Office, Apia for police