

IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 37 - 2018

STATE

-v-

ISAIA VASA

Before : RM Fotofili L.
For Prosecution : WPC Chand A. [Police Prosecution]
Accused : In Person, Waived Right To Counsel
Date of Sentence : 10th December 2019

SENTENCE

BACKGROUND

1. ISAIA VASA, 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

ISAIA VASA on the 31st January, 2018 at Buyabuya Savatu in the Western Division assaulted MAHENDRAN PILLAY thereby causing him 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 39 year old male victim is your co-worker. When you returned to work, you questioned the victim about the money or loan he owed you from a month before. An argument followed. You then punched him twice on the face causing him injuries.

5. The matter was reported to police and you were arrested and interviewed under caution. You are around 27 years old. You admit that the victim is your co-worker. You said that he owed you money. You asked him about the money and he said that he did not have it. You were angry that he lied to you and you punched him on the face.
6. The victim was medically examined later the same day. The medical officer amongst other things, observed that the victim had lost 2 of his teeth [right upper canine and lower central incisor] and there were multiple lacerations on the inner, upper and lower lip.
7. You are not a first offender. You have a previous conviction for assault causing actual bodily harm in 2012 where you were given a 'bound over' sentence and unlawful wounding in 2015 where you were fined.
8. You have not spent any time in remand.
9. You are now 28 years old. You wife gave birth in November 2019.
10. I purposely deferred your sentence until your wife gave birth.

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 4 month imprisonment term is selected as a starting point.

AGGRAVATING FEATURES

14. The victim was your work colleague.
15. You punched him more than once.
16. You made him lose 2 of his teeth.
17. I increase your sentence to 10 months imprisonment.

MITIGATION

18. Although you have pleaded guilty, having heard and observed you during the course of the proceedings, I am not convinced that you are truly remorseful.
19. However, you have cooperated with police in your interview.
20. You have a family to support.
21. Your sentence is reduced to 7 months imprisonment.

GUILTY PLEA

22. You have pleaded guilty early and I will reduce your sentence to 3 months and 14 days imprisonment.

SUSPENSION

23. 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**.
24. 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.

25. Your sentence will be aimed at deterrence and is to punish you adequately.

SENTENCE

26. No further time will be deducted from your sentence as you did not spend any time in remand.

27. You are sentenced to 3 months and 14 days imprisonment.

28. I am not inclined to suspend your remaining imprisonment term whether in part or in whole.

29. You will serve your 3 months and 14 days imprisonment immediately.

30. 28 days to appeal.



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Lisiata T.V. Fotofili
Resident Magistrate

Dated at Tavua this 10th day of December, 2019