

**IN THE MAGISTRATES' COURT OF FIJI  
AT TAVUA  
CRIMINAL JURISDICTION**

Criminal Case No: 173 - 2019

**STATE**

-v-

**MENIUSI VEIKILA**

Before : RM Fotofili L.  
For Prosecution : A/CPL Chand A. [ Police Prosecution ]  
Accused : In Person  
Date of Sentence : 16<sup>th</sup> 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 11<sup>th</sup> day of July, 2019 at Malele, 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 20 year old de-facto wife. You returned home around 3am. The victim asked you if you had talked to your ex-wife and the victim alleged that you were cheating on her. You punched the victim on the back of her head, slapped the victim on her face and hit her forehead with a tv remote causing her injuries.

5. The victim was medically examined about 2 days later after your violence. Amongst other things, the medical officer observed that she had a 0.5 cm cut to her forehead and she had difficulty opening her jaw and her right cheek was tender.
6. The matter was reported and you were later arrested and then interviewed under caution by police. You admitted that you returned home at around 3am after having grog at your parents' place. The victim asked you whether you had talked to your ex-wife which you denied. You then alleged that the victim was cheating on you with a man at Lautoka. When the victim denied, you hit her head with the tv remote, you slapped her right cheek and you punched the back of her head. You were angry and suspected that she was 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. You have not spent any time in remand.
9. 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.
10. The victim was present in court and she verifies that you have apologised to her.

#### 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 is your de-facto partner. A domestic relationship exists.
15. You hit her several times or more than once. You punched the back of her head and slapped her face.
16. You used a tv remote as a weapon hitting her forehead.
17. I increase your sentence to 8 months imprisonment.

### **MITIGATION**

18. You cooperated with police during your interview.
19. I accept that you are remorseful.
20. Some passion and emotion must have existed at the time.
21. You have a family to support.
22. Your sentence is reduced to 3 months imprisonment.

### **GUILTY PLEA**

23. You have pleaded guilty early and I will reduce your sentence to 2 months imprisonment.

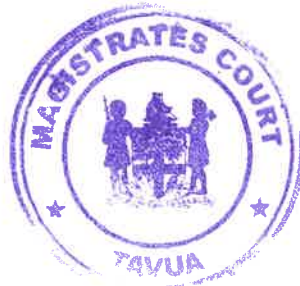
### **SUSPENSION**

24. 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**.

25. I also take into account the factors outlined in section 4 and 15 of the **Sentencing and Penalties Act 2009** in determining your sentence.
26. Your sentence will be aimed at deterrence and is to punish you adequately.

### **SENTENCE**

27. **MENIUSI VEIKILA**, you are sentenced to 2 months imprisonment which is equivalent to 56 days imprisonment.
28. No further reduction will be made to your sentence as you did not spend any time in remand.
29. I am inclined to suspend your imprisonment term but only in part.
30. 35 days of your imprisonment will be suspended for 18 months.
31. Do not commit any other offence punishable with imprisonment or do not commit any other serious offence in the next 18 months because if you do, you risk these 35 days imprisonment that is held in waiting being activated.
32. You will serve 21 days imprisonment immediately.
33. The Domestic Violence Restraining Order [DVRO] with section 27 standard non-molestation which was imposed on you and explained to you on the 6<sup>th</sup> of August 2019 is made final. This is to protect the victim forever unless the DVRO is cancelled or varied.
34. Do not breach any condition of this DVRO or you may be charged with another offence.
35. 28 days to appeal.



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Lisiata T.V. Fotofili  
**Resident Magistrate**

Dated at TAVUA this 16<sup>th</sup> day of February, 2021