

IN THE HIGH COURT OF FIJI
AT SUVA
[CRIMINAL JURISDICTION]

Criminal Case No. HAC 282 of 2018
[Magistrates' Court Criminal Case No. 1104 of 2018]

BETWEEN : STATE

AND : VILIAME SOKIVETA

Counsel : Ms M Chowdhury for the State
Ms S Hazelman for the Accused

Date of Hearing : 15 August 2018

Date of Sentence : 30 August 2018

SENTENCE

- [1] Viliame Sokiveta, you have freely and voluntarily pleaded guilty to a charge of act with intent to cause grievous harm contrary to section 255(a) of the Crimes Act. You are represented by counsel. After hearing you and your counsel, the Court is satisfied your guilty plea is informed and unambiguous. You are convicted as charged.
- [2] The alleged incident occurred on 30 June 2018 at Nasinu. The victim is your daughter. She is a single mother and resides with you with her two children. On the day in question, she arrived home in the early hours of the morning drunk. She had left her children at home under your care. The grandchildren were looked after by you and your wife when the victim was away with her friends overnight. When the victim arrived home at around 8 am, your wife informed her that you had been looking for her. The victim went at the back of the house and set at the verandah. You approached her and told her to leave your house. You were upset to see your

daughter drunk. When she ignored your directive, you lost your temper. You picked up your grandson's bicycle and threw it at her. The bicycle landed on her left arm and hips. She did not move from her seat. When you saw your daughter's defiance you approached her and punched her in the chin. When she did not budge, you went and grabbed a clothing line stick and hit her in the head.

- [3] Your other daughter screamed in horror when she saw the victim bleeding from the head. She got the victim into a taxi with the assistance of a neighbour and took her to the hospital. She was medically examined at around 9 am. The examining doctor found the victim was drunk and distressed. She had sustained a deep laceration on the forehead and tenderness on her arm. She was kept overnight at the hospital for neuro observation and discharged the next morning. The CT scan showed that there was no intracranial bleeding.
- [4] You were arrested and interviewed under caution. You admitted the allegation. You said you lost your temper when the victim defied you by not leaving your house when you told her to leave.
- [5] In assessing the objective seriousness of the offence, I take into account the offence of act with intent to cause grievous harm is punishable by life imprisonment. The tariff is between 6 months imprisonment to 5 years imprisonment (*State v Mokubula* [2003] FJHC 164; HAA0052J.2003S (23 December 2003)). The seriousness of the actual conduct of the offender is gauged from the nature of the weapon used and the seriousness of the injuries sustained by the victim.
- [6] The victim gave evidence at the sentencing hearing. She is your eldest child. She is 29 years old. I accept her evidence that you have apologized to her. She did not sustain any permanent injuries. Her injuries healed within a week.
- [7] You are 51 years old. You are married with four children. Your second child is in the university, your third is in the high school and the youngest is in the primary school. You are a soldier by profession. You joined the Fiji Military Forces in 1987 and

currently you are employed with the Third Battalion Fiji Infantry Regiment based at the Queen Elizabeth Barracks, Nabua. You had an impressive military career. You have served in peace keeping missions in Lebanon three times, in Iraq twice, in Sinai once and in Syria once. You are also a lay preacher and a church elder in your church. The fact that you are a military officer is neither a mitigating factor nor an aggravating factor. However, your service to the State as a soldier when taken together with your good character is a mitigating factor (*State v Batiratu* [2012] FJHC 864; HAR001.2012 (13 February 2012) at [31]).

[8] I accept your guilty plea as evidence of genuine remorse. You entered an early guilty plea consistent with your admission to police. You apologized to the victim. I give you a discount of one third for your early guilty plea, expression of genuine remorse and for saving court time and resources.

[9] While the mitigating factors are strong in your case, I cannot ignore the fact that this is a case of family violence. A bicycle and a clothing line stick were used as weapons to inflict physical injuries to the victim. You punched the victim in the chin and then hit her in the head with a stick. The victim was your daughter. No matter what the circumstances are, there can never be an excuse to inflict violence on a family member. I take into account the breach of trust and the repeated nature of physical violence using weapons as the aggravating factors. A prison sentence is unavoidable in cases of family violence using weapons. That is because the courts have a duty to denounce family violence and deter others.

[10] Fortunately, the victim was not seriously injured. You have taken responsibility for your conduct by pleading guilty and expressing remorse. I don't think you pose any further threat to the victim.

[11] Your military career may come to an end with this criminal conviction. That is a form of punishment for you.

[12] Given all these factors, I have assessed your criminality at the lower end of the tariff for the offence of act with intent to cause grievous harm. I sentence you to 6 months imprisonment. You have served in custody on remand for 2 months. The remaining term for you to serve is 4 months' imprisonment.

[13] A permanent domestic violence restraining order with standard non-molestation conditions set out in section 27(2) of the Domestic Violence Act is issued for the safety and wellbeing of the victim. This order will remain in place until further order from the High Court, Family Division.



A handwritten signature in blue ink, appearing to be "DG", written over a horizontal dotted line.

Hon. Mr Justice Daniel Goundar

Solicitors:

Office of the Director of Public Prosecutions for the State
Office of Legal Aid Commission for the Accused