

Mohammad Ihsan bin Haji Mokhtar

AND

Public Prosecutor

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 26 of 2025)**

Before: Steven Chong, C.J.; Lunn, and Woolley, JJA.

Date of Hearing: 10th June 2026

Date of Judgment: 24th June 2026

Headnote: Criminal law – Child abuse – Significant aggravating features – Young and vulnerable victim – Serious and extensive injuries – Prolonged course of offending- Abuse of trust - Attempt to conceal offending – Personal circumstances of limited mitigating weight – Sentence neither manifestly excessive nor wrong in principle – Application for extension of time to appeal dismissed - Substantial delay in disposal of case – Timely disposal of criminal proceedings a matter of public importance.

Appellant in Person.

PO Shamsuddin bin Haji Kamaluddin and DPP Hajah Nur Ruzana binti Haji Adnan for Respondent.

Cases cited:

Public Prosecutor v Suriah bte Japar Buha [Criminal Trial No.7 of 2014]

Steven Chong, C.J.:

Introduction

1. On 26th July 2023, the applicant was arraigned before the Intermediate Court and claimed trial to a charge of child abuse under section 28(1) (a) of the Children and Young Persons Act. The matter was thereafter adjourned on multiple occasions for a variety of reasons.
2. More than one and a half years later, on 15th February 2025, when the case was next mentioned for the purpose of fixing trial dates, the applicant indicated his intention to change his plea. The charge was read and explained to him afresh, whereupon he pleaded guilty. The Judge imposed a sentence of 6 years' imprisonment and 5 strokes.
3. The applicant now seeks an extension of time to appeal against the sentence imposed.

The Facts

4. At the material time, the applicant was 37 years of age and unemployed. He was in a relationship with one M, who, as set out in the Statement of Facts, shall be referred to as his girlfriend. His girlfriend had a son, X, then aged one year and nine months. The applicant resided at Kampong Sibulu, Temburong together with his parents, his two sons from a previous marriage, his girlfriend, and X.
5. On 24th June 2023, a report was lodged by personnel from the Women and Children Abuse Investigation Unit, CID, following information received from medical social workers that X had been presented at RIPAS Hospital with multiple bruises across his body. It was ascertained that X had been brought to the Accident and Emergency Department of the RIPAS Hospital on 23rd June 2023 by his mother. He was thereafter admitted to the Paediatrics Intensive Care Unit for treatment.
6. Investigations revealed that, from March 2023, the applicant's girlfriend and X had been residing at his house, where the applicant was involved in X's day-to-day care. On 23rd June 2023, the applicant's girlfriend returned home from work and observed that X was vomiting. During her absence, X had been under the care of the applicant at the said premises. She further noticed that X's arm was swollen and, upon enquiring, the applicant informed her the X had fallen from an all-terrain vehicle (ATV). This explanation prompted her to bring X to the Accident and Emergency Department of RIPAS Hospital for medical attention.
7. X was examined by medical officers at RIPAS Hospital and was found to have sustained the following injuries:
 - I. Healed fractures of the left radius and ulna;
 - II. Displaced supracondylar fracture of the right humerus;
 - III. Bruising of the right forearm;
 - IV. Bruising of the right leg;
 - V. Periosteal reaction of the right tibia which probably could be secondary to trauma;
 - VI. Fracture of the left seventh rib with collapse-consolidation of the whole left lung and fluid in his lung;
 - VII. Fractures of the superior and inferior pubic rami on the right-side ("pelvic fracture");
 - VIII. Bruising across his abdomen;
 - IX. Bruising on his upper and lower back;
 - X. Specks of dried blood on the outside of his ear;
 - XI. Swollen and bruised left thumb;
 - XII. Complete duodenal cut at 4th part.

The Sentence

8. In determining the appropriate sentence, the Judge had regard to the relevant authorities on child abuse, including *Public Prosecutor v Suriah bte Japar Buha* [Criminal Trial No.7 of 2014], in which the High Court sentenced a domestic helper, who had pleaded guilty, to 4 years' imprisonment for the abuse of a child aged one year and 8 months. The victim sustained bruises, which were certified in the medical report as constituting "hurt". The Judge considered the present case to be materially more serious than *Suriah*; having regard to the multiplicity, nature and severity of the injuries inflicted upon the victim, X. On that basis, the Judge adopted a starting point of 8 years' imprisonment.
9. The Judge then considered the applicant's plea of guilty as a mitigating factor. However, the Judge declined to accord the conventional one-third reduction, taking the view that the applicant had not entered his plea at the earliest reasonable opportunity. Instead, a discount of one-quarter was allowed. After giving effect to that reduction, the Judge imposed a sentence of 6 years' imprisonment together with 5 strokes.

The Appeal

10. In support of his appeal for a reduction in sentence, the applicant relies principally on his personal and family circumstances. He submits that he is responsible for the care and financial support of his two young children and his elderly parents, and expresses particular concern for his mother's deteriorating health. The applicant further contends that he is remorseful for his offending conduct and has accepted responsibility for his actions, as evidenced by his plea of guilt.
11. The Prosecutor submits that the sentence imposed was not manifestly excessive. He contends that the sentence appropriately reflected the significant aggravating features of the offence, namely the victim's tender age, the multiplicity and seriousness of the injuries inflicted, and the fact that the abuse was perpetrated over a prolonged period of time.

Decision

12. At the outset, we consider it necessary to express our concerns regarding the substantial delay in the disposal of this case. Having appeared for the first time in the Intermediate Court on 11th July 2023, the Applicant was remanded until 26th July 2023. On that date, the applicant was arraigned and pleaded not guilty to the Charge. On 15th February 2025, having indicated that he wished to plead guilty, the Applicant was re-arraigned and having pleaded guilty to the Charge was convicted. However, he was not sentenced until 20th March 2025, 20 months after arraignment.
13. On 10th August 2023, the Judge fixed the trial hearing for 12 days to commence on 29th January 2025 and to continue until 18th February 2025. Earlier, the Prosecution had indicated that the Prosecutor was available to conduct the case from 11th December 2023.

However, having checked his diary, the Judge had indicated that his first available date was 29th January 2025.

14. No request was made that the case be reallocated to another Judge to deal with more expeditiously or that the Judge consider re-fixing other cases listed in his diary to give priority to this important case.
15. Such a prolonged period between arraignment and final disposition is unsatisfactory and is not conducive to the proper administration of justice. The timely disposal of criminal proceedings is a matter of considerable public importance. Delays of this nature may undermine public confidence in the criminal justice system, cause unnecessary distress to victims and witnesses, and prolong uncertainty for accused persons whose legal position remain unresolved. In cases involving allegations of violence against young children, the need for expedition is particularly acute. The interests of the victim, the accused, and the wider public all require that matters be brought to a conclusion within a reasonable time
16. In our judgment, the applicant's personal and family circumstances are not so exceptional as to warrant appellate intervention or any reduction in sentence. While we are not unsympathetic to the difficulties faced by his family, including the poor health of his mother and the dependence placed upon him by his young children and elderly parents, such considerations must be weighed against the seriousness of the offending and the strong public interest in the protection of vulnerable children.
17. In the present case, there are several significant aggravating features. First, the applicant had been entrusted with the care of the victim while the victim's mother was at work. He therefore occupied a position of trust and responsibility which he gravely abused. Secondly, the victim was a particularly vulnerable child, being less than two years of age and wholly incapable of protecting himself or reporting the abuse. Thirdly, the offending was marked by both the severity and multiplicity of injuries, including multiple fractures, which were not the result of a single isolated incident but were inflicted over an extended period and on multiple occasions. These factors elevate the seriousness of the offence.
18. We also regard as aggravating the applicant's attempt to conceal his wrongdoing. Rather than accepting responsibility, he falsely claimed that the victim's injuries had been caused by a fall from an ATV, thereby seeking to deflect suspicion and impede the discovery of the true cause of the injuries.
19. Having regard to these aggravating circumstances, we are satisfied that the Judge was fully justified in adopting a starting point of 8 years' imprisonment. The starting point appropriately reflected both the grave harm caused to the victim and the high degree of culpability exhibited by the applicant.
20. As to the discount for the plea of guilty, it is well-established that where an offender indicates a plea of guilty at the earliest opportunity, ordinarily at the first hearing at which a plea is sought and recorded, a reduction of up to one-third may be justified. Such a reduction recognises the utilitarian value of an early plea, including the saving of judicial

resources and the avoidance of the need for witnesses, particularly vulnerable victims, to give evidence.

21. That was not the position here. The applicant initially claimed trial and maintained that position for a considerable period. It was only more than one and a half years later, when the matter was mentioned for the fixing of trial dates, that he elected to plead guilty. In those circumstances, the utilitarian value of the plea was materially diminished. We therefore agree with the Judge that a reduction of one-quarter, rather than the conventional one-third, was appropriate.
22. Taking into account the totality of the circumstances, including the victim's young age and vulnerability, the nature and extent of the injuries sustained, the prolonged and persistent course of offending, the abuse of trust inherent in the applicant's conduct, the subsequent efforts to conceal the offending, and the limited mitigating weight attributable to the applicant's personal circumstances, we are satisfied the sentence imposed was neither manifestly excessive nor erroneous in principle. In our judgment, a sentence of 6 years' imprisonment and 5 strokes, properly reflects both the gravity of the harm occasioned and the applicant's high degree of culpability.

Conclusion

23. For the foregoing reasons, we find no arguable ground warranting appellate intervention in respect of the sentence imposed. It follows that the application for an extension of time to appeal is dismissed.



DATO SERI PADUKA STEVEN CHONG, C.J.



LUNN, J.A.



WOOLLEY, J.A.