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**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
(Criminal Jurisdiction)

**CRIMINAL CASE No.144 OF 2009**

**PUBLIC PROSECUTOR - v - SYLVIO ARU BEN**

**Coram:** *Chief Justice Vincent Lunabek*

**Counsel:** *Ms Viviane Laumae for the Public Prosecutor  
Mr Andrew Bal of Public Solicitor's office for the Defendant*

**SENTENCE**

Defendant, Sylvio Aru Ben, pleaded guilty and convicted of one count of possession of cannabis, contrary to Section 2(62) of the Dangerous Drugs Act [CAP.12].

The brief facts are as follows:

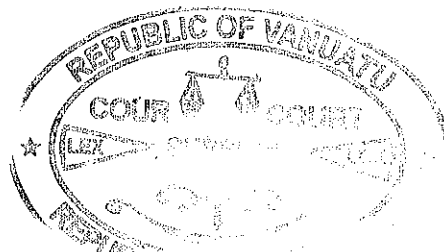
The Defendant, namely Sylvio Aru Ben is charged with possession of cannabis leaves contrary to Section 2(62) of the Dangerous Drugs Act [CAP.12].

Mr Aru is 31 years of age. He lives at Namba 3 area in the Republic of Vanuatu. He comes from the Island of Paama.

On the 11<sup>th</sup> day of November, 2009, at about 10.40AM at Namba 3 area, police officer Ste George arrested Mr Ben for unlawful possession of cannabis leaves. Mr Aru had the cannabis leaves in his small hand bag.

Police officer, Steve George arrested and searched Mr Aru. On the 16<sup>th</sup> day of November 2009, Mr Aru admitted to the allegations laid against him.

The weight of the cannabis at the possession of the Defendant are set out as follows:



- cannabis in a paper wrap                      19.09 grams
- plastic bag    107.95 grams
- 2 plastic bags    61.42 grams

A same day report was provided. The report shows that he grew up in a family of two. He has one sister and he is a single father of two children, aged 12 and 5 respectively. His mother (Mrs Iren Ben) stated her son (the Defendant) uses threatening words and they do not have a good family relationship. Her mother stated Mr Ben is not supportive of his children. The report indicates that the Ben stated he has problem with is private part (penis got swollen when he lifted heavy things) but he never got checked into the hospital. The Defendant consumes alcohol, cigarette, kava and begun taking marijuana in 2008 and when he was remanded in custody he stopped taking the cannabis.

The report shows that the Defendant had possession of cannabis when he used cannabis at home and in front of his children. His mother stated she had warned him many times, but the Defendant threatened her by saying "he would cut them with knife and axes".

The report shows also that the Defendant does not and never listens and is disrespectful towards the guards at the Correctional Services and that he does not abide by the Correctional Centre Rules.

The Defendant is not a first time offender. He appears to demonstrate no insight of his offending. He shows no empathy or remorse of his offending. He does not seem motivated to address his offending behaviour.

Possession of cannabis is very serious offence. The maximum penalty is 20 years imprisonment or 100 million Vatu or both.

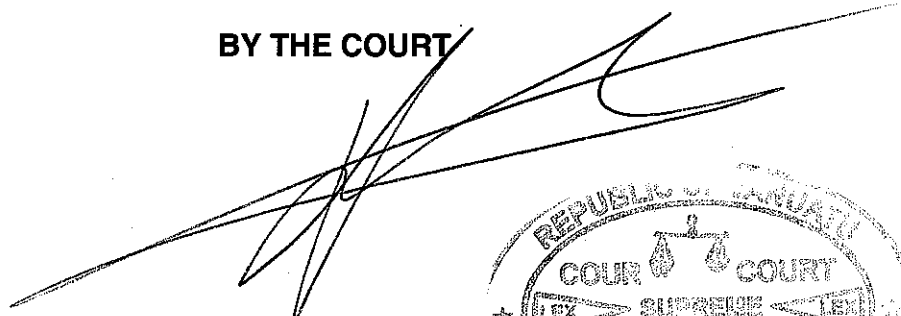


Defendant is sentenced to 24 months imprisonment. He is entitled to be deducted time already spent in custody during his remand. The total amount of cannabis leaves seized in the possession of the Defendant, Sylvio Aru Ben, must be condemned. The destruction process and procedure shall be the same as in the case of PP v. Arthy Mahit, Criminal Case No. 138 of 2009.

The Defendant has 14 days to appeal.

**DATED at Port-Vila this 17<sup>th</sup> day of December 2009**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**

