

(Criminal Jurisdiction)

**PUBLIC PROSECUTOR**

**VS.**

**SAMSON TALI**

Mr Justice Oliver A. Saksak

Mr P. Wirrick for the State  
Ms J. Tari for the Defendant

Date of Plea: 1<sup>st</sup> February 2012  
Date of Sentence: 3<sup>rd</sup> February 2012

## **SENTENCE**

1. Samson Tali you pleaded guilty to one count of unlawful possession of cannabis contrary to Section 2(60) of the Drugs Act Cap 12.
2. The maximum penalty for this offending is a fine not exceeding VT100 Million or imprisonment not exceeding 20 years.
3. On 16<sup>th</sup> November 2011, you were arrested in relation to an alleged assault. When the Police searched you, they found in your possession an unquantified amount of cannabis. I note from the defence submissions that you asserted the trousers you wore at the time was not yours and that you asserted having no knowledge it contained cannabis seeds. In your pre-sentence report, you asserted that you found the trousers at Matantas beach. That is a ridiculous story this Court cannot believe.



4. The prosecutor submitted that Section 2 of the Drugs Act Cap 12 does not require the involvement of the state of mind. I accept that submission.
5. Section 2 of the Drugs Act does not even state the amount that should be possessed. Both counsel referred the Court to the case of Public Prosecutor v. Sope [2004] VUCA 14 to assist the Court in imposing an appropriate punishment.
6. The Prosecutor has indicated that you had previous conviction in 2010 and that you were imprisoned for 4 months for arson, damage to property, obstructing of Police and for drunk and disorderly. This is only partly correct.
7. Having checked the sentence in Criminal Case No. 1 of 2009, you were sentenced on 10<sup>th</sup> February 2010. Under paragraph 6, you were sentenced separately for the offences of unlawful entry and arson to 3 months imprisonment which was suspended for a period of 24 months (2 years) on condition that you should not re-offend. This was a concurrent sentence.
8. When you committed this drug offence on 16<sup>th</sup> November 2011, it was within the period of 2 years of your suspended sentence. That being so, that sentence is now activated and you are hereby sent to the Correctional Centre in Luganville to serve 3 months of your concurrent suspended sentence.
9. For the Drug Offence, you are sentenced to one (1) month imprisonment but this sentence is suspended for a period of 12 months under Section 57 of the Penal Code Act on condition that you do not commit this same offence again. This suspension is necessary



because for a drug offence you are a first-time offender. The 12 months period starts at the end of your 3 months sentence.

10. The Court decides to impose a custodial sentence for the drug offence in order to deter you and others from getting involved in drug offences.
11. That is the sentence of the Court.

DATED at Luganville this 3<sup>rd</sup> day of February 2012.

BY THE COURT

  
OLIVER A. SAKSAK

Judge

