

(Criminal Jurisdiction)

**PUBLIC PROSECUTOR**

**VS.**

**JOHN KALMET**

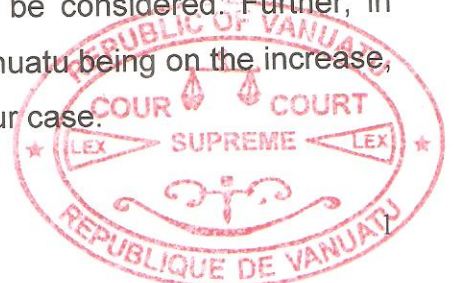
Mr Justice Oliver A. Saksak

Mr P. Wirrick for Public Prosecutor  
Miss J. Tari for Defendant

Date of Hearing of Submissions and Sentence: 22<sup>nd</sup> February 2013

## **SENTENCE**

1. JOHN KALMET, you were charged with one count of unlawful possession of cannabis contrary to Section 2(62) of the Dangerous Drugs Act Cap. 12.
2. On 5<sup>th</sup> February 2013, you pleaded guilty as charged and the Court entered a conviction against you for the charge.
3. I remind you and others present in Court today that the maximum penalty for Importation, Sale, Supply or Possession of Cannabis in Vanuatu is a fine not exceeding VT100 Million or imprisonment of not exceeding 20 years or both. These heavy penalties indicate that it is a serious offence to simply possess cannabis. The quantity of it is immaterial.
4. In assessing your appropriate punishment I have considered matters raised in your Pre-Sentence Report, and submissions raised by both the Prosecutions and Defence counsel.
5. The Court is guided by the classic case of Public Prosecutor v. Sope [2004] VUCA 14, a case which both the Prosecutions and Defence Counsel have referred the Court to. From this case the Court accepts submissions from Prosecutions that a deterrence sentence should be considered. Further, in light of the current trend of drugs offendings in Vanuatu being on the increase, deterrence sentences should be appropriate in your case.



6. For those reasons the Court is of the view that a custodial sentence for you is the appropriate sentence. The Prosecutions have submitted that you be imprisoned for a period of between 6 – 12 months. I think that period is on the higher side in view of the fact that the quantity of drugs found in your possession was very minimal of 0.575 grams, but which consisted both of seeds and leaves.
7. I consider therefore that a period of custody of 5 months is appropriate for your offending.
8. You have had previous conviction in the Magistrate's Court in September 2010 for a theft offence and were sentenced to supervision. I do not consider that sentence to have any bearing to the Court's sentence on you today.
9. I have nevertheless considered the following mitigating factors such as –
  - (a) Your good cooperation with Police on investigation, and
  - (b) Your early guilty plea to be of relevance to suspend your custodial sentence.
10. Your Sentence of 5 months imprisonment is therefore suspended for a period of 12 months (1 year) from the date of this Sentence.
11. You must understand that you do not have to go to prison today. You will remain in the community but on condition that you do not get involved with drugs or cannabis or deal with it in any way as prohibited by law. If you do and are caught by the Police and charged, you will go to prison straight away for a period of 5 months.
12. That is the Sentence of the Court. You have a right of appeal against Sentence if you so choose, but you should do so within 14 days.

**DATED at Luganville this 22<sup>nd</sup> day of February 2013.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge**

