

PUBLIC PROSECUTOR

V

MARK MOON ANDREW

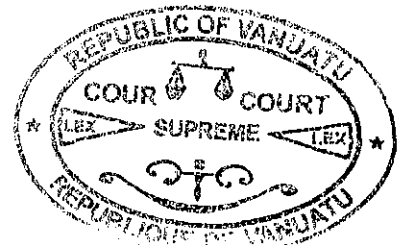
*Hearing:* 8 May 2014  
*Before:* Justice SM Harrop  
*In attendance:* Tabisa Harrison for the Public Prosecutor  
Pauline Kalwatman for the Defendant

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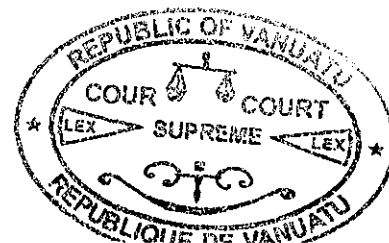
SENTENCE OF JUSTICE SM HARROP

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1. Mr Andrew was scheduled to appear before the Court on 6 May 2014 at 9am to plead to one count of possession of cannabis contrary to section 2 (62) of the Dangerous Drugs Act [Cap. 12]. He was committed by a senior Magistrate on this charge on 26 March 2014.
2. Mr Andrew did not appear on 6 May 2014 as required and on being satisfied that he was present when committed and told to appear then, I issued a warrant to arrest him.
3. On 7 May 2014, his counsel, Ms Kalwatman advised the Court that Mr Andrew had not been summoned to attend and was unaware of the plea date. She said that Mr Andrew had not intended to escape the consequences of the charge and was willing to plead at any convenient time.
4. I arranged for Mr Andrew to be arraigned at 2 pm on 8 May 2014. I withdrew the warrant to arrest despite being satisfied that it had been properly issued since the indications on the file were that he was present when committed and told to appear on 6 May.



5. Mr Andrew pleaded guilty to the charge and after hearing submissions from counsel I sentenced him to 6 months imprisonment suspended for a period of 2 years. I said that I would deliver written reasons for reaching that conclusion and now do so.
6. Mr Andrew was found in possession with one roll of cannabis weighing 0.95 grams. This was found by a police officer when detaining Mr Andrew on 21 March 2012 after he had escaped from a Correctional Centre.
7. Mr Andrew readily admitted his offence and has pleaded guilty at the first opportunity.
8. The maximum penalty for this offence is a fine of Vt 100,000,000 or twenty years imprisonment or both. Those penalties however apply to a wide range of drug offending and there is no doubt that possession of one cannabis cigarette is right at the bottom of the spectrum of possible drug offences. The amount of the drug here is modest.
9. Ms Harrison informed me that on 28 July 2012, Mr Andrew was convicted of theft, trespass and unlawful entry for which he was sentenced to 3 years imprisonment. He is now on parole.
10. As at the date of this offence, 21 March 2012, Mr Andrew was therefore someone without any previous convictions at all let alone any directly relevant convictions relating to drugs.
11. In determining the appropriate sentence I have taken into account a recent sentence imposed by Justice Sey in Criminal Case No. 17 of 2014 PP v. Anthony Saurej. Mr Saurej had pleaded guilty to possession of cannabis weighing 0.69 grams and had no previous convictions. Her Lordship considered an appropriate starting point was one of nine months imprisonment with a one third reduction of guilty plea leaving an end



sentence of six months imprisonment. This was suspended for a period of two years and an order made for a forfeiture of the cannabis.

12. It is important that the Court sentences like offenders in a like manner. There is no material difference between these two cases.
13. For these reasons I sentenced Mr Andrew to six months' imprisonment, suspended for two years. As I told him, if he reoffends during that two years suspension period and was convicted then he may be required to serve the six months present sentence in addition to any sentence which he may receive following the new conviction.
14. I also order that the cannabis found in Mr Andrew's possession be forfeited and destroyed in accordance with section 18 (1) (b) of the Dangerous Drugs Act [Cap. 12].
15. Mr Andrew has 14 days within which to file a notice of appeal against the sentence if he does not agree with it. I understood however from Ms Kalwatman's submissions that Mr Andrew had no opposition to this sentence being imposed when I suggested during the hearing that it was appropriate.

BY THE COURT

