

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

**Criminal**  
**Case No. 20/162 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**ARTHUR TITUS  
PAUL NIKAH**

*Date:* 16 April 2020  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Mr P. Toaliu  
Defendants – Mr F. Tasso

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**SENTENCE**

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A. Introduction

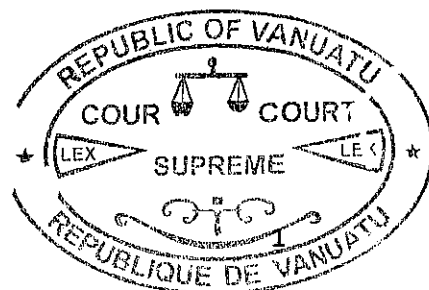
1. Mr Titus and Mr Nikahi pleaded guilty on 3 March 2020 to one charge each of possession of dangerous drugs, and Mr Titus to one charge of sale of dangerous drugs.
2. The maximum sentence for these offences is a fine not exceeding VT100 million or 20 years imprisonment, or both.

B. Facts

3. On 4 February 2020, at the Pango French School, Mr Titus sold cannabis to Mr Nikahi. Shortly after, the police arrested them.
4. Mr Nikahi had in his possession the joint of cannabis that he bought from Mr Titus for VT100. Mr Titus had in his possession 46 joints of cannabis, weighing 13 grams in total.
5. Mr Titus and Mr Nikahi made full admissions to the police.

C. Aggravating/Mitigating Factors of the Offending

6. There are no aggravating or mitigating factors to the offending.



7. I take the charge of selling cannabis as the lead offence for Mr Titus. Looking at the offending in total, I set the global start point for Mr Titus' offending at 16 months' imprisonment.
8. I am minded to sentence Mr Nikahi to a non-imprisonment sentence.

D. Personal Factors

Mr Titus

9. Mr Titus is 31 years old and lives in a de facto relationship. He has a 4 year old son. Mr Titus is self-employed, running a small kava bar as well as doing small jobs around Pango village such as building houses or mechanical repairs. His main ambition is to build rental units on the land that his father had purchased to improve his living to sustain his family. He has no previous convictions.
10. For the personal factors, I reduce the start point of Mr Titus' sentence by 2 months imprisonment.

Mr Nikahi

11. Mr Nikahi is 23 years old and single. He is unemployed but does part time jobs for his family at Pango village. His main ambition is to secure a job, earn money and build a house. He has no previous convictions. There is a suggestion that Mr Nikahi is mentally ill as a result of his cannabis consumption. There is no confirmation of this.

E. Deduction for Guilty Plea

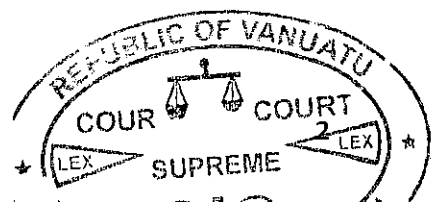
12. The entry of Mr Titus' guilty plea at the first opportunity and the strength of the Prosecution case warrant a 25% deduction.

F. Conviction and End Sentence – Mr Titus

13. I convict Mr Titus on his plea and the summary of facts.
14. Taking all of the above matters into account, the end sentence that must be imposed on Mr Titus for sale of cannabis is one of 10 and a half months imprisonment. The end sentence for the possession of cannabis is 6 months imprisonment. These sentences are to run concurrently.

G. End Sentence – Mr Nikahi

15. Mr Nikahi's relative youth and his lack of previous convictions mean he has prospects for reformation and rehabilitation. Therefore the intervention of the law at this stage should be to assist him as much as possible to reform and rehabilitate. I see no merit in entering a conviction, and that conviction remaining as part of his personal for the next several years until it is expunged from his record.



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16. Taking the above matters into account, the end sentence that I impose on Mr Nikahi is pursuant to section 42 of the *Penal Code* to order Mr Nikahi to come up again before the Court for sentence if called upon within a period of 18 months. Accordingly, there is no sentence imposed for the offence at this stage – and indeed, if Mr Nikahi does not reoffend in any way in the next 18 months he will not be sentenced for this offending. However, if Mr Nikahi does re-offend in any manner, he will be called up to be sentenced for this offence – as well as any other sentence he may receive.
17. I deal with the current offence in this way on condition that Mr Nikahi undertakes and satisfactorily completes 12 months of supervision.
18. I consider that keeping Mr Nikahi in the community is practicable and consistent with the safety of the community.

H. Suspension – Mr Titus

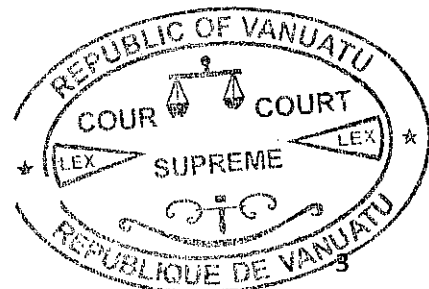
19. I have the ability, in certain circumstances, to suspend an imprisonment sentence in part or entirely. In view of the following factors:
  - a. the offending being for possession of cannabis weighing just 13 grams, and sale of one joint of cannabis of VT100; and
  - b. Mr Titus' character in that he is self-employed as a kava bar entrepreneur, with a young son;

I consider that it is not appropriate to make Mr Titus suffer an immediate imprisonment. I order the suspension of the execution of the imprisonment sentences on the condition that Mr Titus commits no further offence within the next 2 years.

20. I consider that keeping Mr Titus in the community is practicable and consistent with the safety of the community.
21. Although Mr Titus will not have to go into Correctional Services' custody today, I must warn him that if he commits an offence in the next 2 years and is convicted, that he will be required to serve the imprisonment sentences in addition to any other penalty that may be imposed on him for the further offending.
22. In addition, I impose a sentence of 30 hours' community work.

I. Other

23. The cannabis seized by the Police is to be destroyed.



24. Mr Titus and Mr Nikahi have 14 days to appeal these sentences if they disagree with them.

**DATED at Port Vila this 16<sup>th</sup> day of April 2020  
BY THE COURT**

*V.M. Trief*

V.M. Trief  
Judge

