

PUBLIC PROSECUTOR
V
MARCEL MELTERONGRONG

Date of Plea: 20th August 2024
Coram: Hon. Chief Justice V. Lunabek
Counsel: C. Shem for the State
C. Dehinavanua for the Defendant
Date of Sentence: 24 September 2024

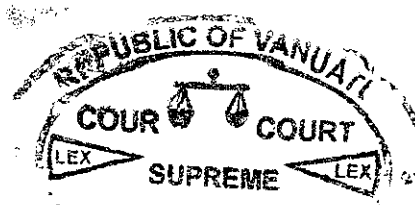
SENTENCE

I. Introduction

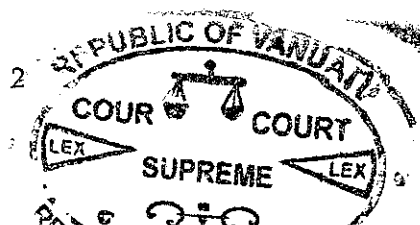
1. Mr Marcel Melterongrong ("*Mr Melterongrong*"), you appear today for sentence having being pleaded guilty and convicted on one count of unlawful cultivation of cannabis, contrary to Section 4(1) of the Dangerous Drugs Act [CAP. 12].

II. Facts

2. A formal complaint was made against you by Corporal Nelson Roger, a police officer working in the Tactical Response Group (TRG) at the Central Police Station for the offence of cultivation of cannabis plants which is prohibited by the law of the Republic of Vanuatu.
3. The complainant has seen what he described and suspected to be cannabis plants growing inside your yard at Erakor village since January 2024 and reported it to the relevant Drugs Unit within the Police.
4. On 19 February 2024, the complainant among the TRG team assisted police officers from the Drugs Unit to investigate you. The police went to your house and saw what they suspected as prohibited substances cannabis plants being grown in your yard.



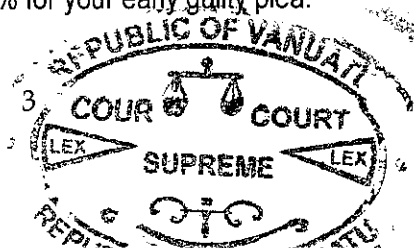
5. The offence of cultivation of cannabis plants carries a maximum sentence of a fine not exceeding 100 million vatu or a term of imprisonment not exceeding 20 years or to both such a fine and imprisonment.
6. Your wife, Aline Kapalu, states that you has just started planting cannabis in the middle of the year 2023 and only planted the seeds inside the yard. That she and you boil the cannabis leaves to use as custom medicine for other people who are sick to drink.
7. The complainant and PPC Lee Tawia uprooted around 48 suspected cannabis plants and PPC Andre Jimmy uprooted 18 suspected cannabis plants from your yard and seized the plants. The total uprooted and seized is 66 cannabis plants.
8. You were arrested and the suspected cannabis plants were exhibited and taken on the CID office handed over on 19 February 2024 and released on the next day 20 February 2024 to Sgt Winshual Garae.
9. On 20 February Sgt Rodney Taivakalo removed two of the suspected cannabis plants from the 66 suspected cannabis plants that were seized and exhibited from your yard and handed it to Dr Vincent Lebot, a botanist at the Department of Agriculture. Dr Vincent Lebot observed the two suspected cannabis plants samples by performing a non-magnified morphological examination, he confirmed that the two suspected plants are cannabis plants. After Dr Vincent Lebot examined the two suspected plants he handed the plants back to Sgt Rodney Taivakalo.
10. On 20 February 2024, Sergeant Winshaul Garae who works as a Drug Examination Officer in the Vanuatu Police – Forensic Unit received exhibits obtained from you containing 66 plants materials suspected to be cannabis. On 27 February Sergeant Winshaul Garae conducted a presumptive test on the suspected cannabis plants the test proved positive to cannabis. He had to cut the suspected cannabis plants into small pieces and put them inside a yellow municipal rubbish bag to weight the plants on the scale. He could not weigh all 66 suspected cannabis plants at once on the scale as they were whole plants and some of the plants would touch the ground and the scale would not provide an accurate reading for the net weight. The net weight of the plants is 6.14kg.
11. On 20 February 2024, you were interviewed by Cpt Simon Vargali witnessed by PC Jackie Lui. You understood your rights and the allegations against you. You stated that:
 - You planted the cannabis to use as medicine and that you gave medicine to others for free;
 - You admitted that you planted the cannabis and you have been planting cannabis since Cyclone Pam;
 - You did not try to hide the cannabis plants and knew that one day the Police will find out;
 - You planted the cannabis plants, you smoke it and used it for medicine;



- You did it to save your children's health, you found out that it was good medicine and wanted to help people.
12. The offence of cultivation of cannabis plants carries a maximum sentence of a fine not exceeding 100 million Vatu or a term of imprisonment not exceeding 20 years or to both such a fine and imprisonment.
 13. There is no mitigating factor to the offending, but the following aggravating factors exists:
 - (a) You had a knowledge intention of the nature of the plants in your possession as opposed to being reckless in cultivating it;
 - (b) You cultivated a total of 66 cannabis plants; and
 - (c) The total net weight of the cannabis plants you planted is 6.14kg.
 14. This case lies under category 2 of Wetul guidelines in *Wetul v Public Prosecutor* [2013] VUCA 26.

III. Sentence start point and mitigation

15. The sentence start point is 3 years imprisonment.
16. In mitigation, Mr Melterongrong, you are a first-time offender with no previous conviction. You are 49 years old. You completed year 14 level of education. You have interests in writing books.
17. You said in your pre-sentence report that you wrote two books entitled "*Nagaemas*" and "*Pirogue à la dérive*" where a lot of people in Vanuatu and New Caledonia were interested in those books. You said you are also a film producer and you produced the film title "*Stamba blo freedom*" where Vanuatu Television Broadcasting used the film during the week of independence. You stated you have writing skills, song writer, story teller and film maker. You said you used your music and films to promote local artists in Vanuatu to young people about life.
18. You stated further that you planted cannabis plants for medical purposes. You explained that you do this not knowing that you would face the consequences.
19. You said you regretted your actions and wish to apologize to the people of Erakor, Vao and Port Vila for reputation as a well-known man in Vanuatu.
20. I give you a reduction of 4 months for your mitigating factors.
21. I give you a further reduction of 33% for your early guilty plea.



22. The remaining balance of your sentence is 22 months imprisonment.

IV. End Sentence

23. This is your end sentence.

24. You were arrested, interviewed and released on bail on the same day.

25. I consider the nature and circumstances of your offending, I decline to suspend your term of imprisonment sentence. The custodial sentence is a punishment for your offending; it is also a deterrence to you as well as the wider member of the community showing public disapproval of this type of offending that cultivating cannabis with knowledge that it is prohibited substance continues to be root problem in this country.

26. You are ordered to serve 22 months imprisonment with immediate effect.

27. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts at that date of this sentence.

28. The 66 cannabis plants and under the custody of police officers must be destroyed.

DATED at Port Vila, this 24th day of September, 2024.

BY THE COURT

Hon. Chief Justice Vincent LUNABEK

