

**PUBLIC PROSECUTOR**

**v**

**CHRIS ANDFALO**

Date of Plea: 2 December 2024  
Date of Sentence: 6 December 2024  
Before: Justice M A MacKenzie  
In Attendance: Public Prosecutor – Ms J Tete  
Defendant – Ms B Taleo

---

**SENTENCE**

---

**Introduction**

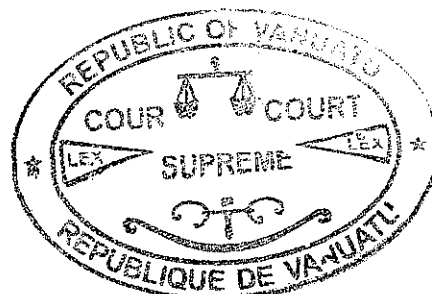
1. Mr Chris Andfalo, you appear for sentence having pleaded guilty to one charge of cultivation of cannabis. The maximum penalty is 20 years imprisonment, or a fine not exceeding VT 100 million or both.

**The Facts**

2. On 28 July 2024, police located 19 cannabis plants in a garden in South Santo. Enquiries made by police established that the plants were yours. Testing confirmed the plants were cannabis, with a total net weight of 55 grams.
3. You were cautioned and admitted the allegations.

**Sentencing purposes/principles**

4. The sentence I impose must hold you accountable and must denounce and deter your conduct given that you were cultivating cannabis, which causes social harm. The



sentence should ensure you take responsibility for your actions, and help you to rehabilitate. It must also be generally consistent.

### **Approach to sentence**

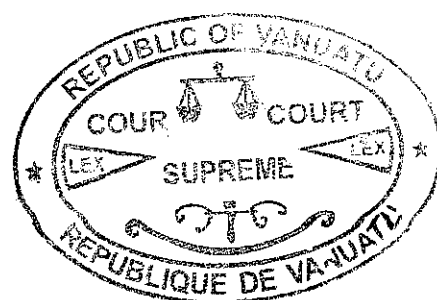
5. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

### **Starting point**

6. The first step is to set a starting point taking into account the aggravating and mitigating factors of the offending itself and the maximum penalty for the offence.
7. The aggravating factors here are that you deliberately cultivated the cannabis, the number of plants and that the cannabis plants had a net weight of 55 g.
8. There are no mitigating features of the offending itself.
9. There is a guideline case for cannabis cultivation, *Wetul v Public Prosecutor* [2013] VUCA 26. Here, the cultivation involved 19 plants. There is nothing to suggest cultivation for a commercial purpose. While the net weight of the plants is moderately serious, the offending here falls within category 1 of *Wetul*. So, the usual sentencing outcome would be a fine or other community-based sentence, or a short custodial sentence.
10. Both counsel have filed written submissions as to the appropriate starting point. The recent sentencing decisions of *Public Prosecutor v Kaiding* [2024] VUSC 93 and *Public Prosecutor v Saksak* [2024] VUSC 92 provide some assistance. In *Kaiding*, there were 5 plants with a net weight of 15.5 g. The offending was within Category 1 of *Wetul*. The starting point was 16 months imprisonment. In *Saksak*, the net weight of the cannabis cultivated was 109.4 g. The offending fell within Category 1 of *Wetul*. The starting point was 2 years imprisonment. The present case falls somewhere between *Kaiding* and *Saksak* in terms of culpability.
11. Given the quantity of cannabis cultivated, and the cases I have referred to, I adopt a starting point of 18 months imprisonment.

### **Guilty plea and personal factors**

12. While you did plead guilty at an early stage, I agree that the discount for plea should be limited to 25 %. That is because the case against you is overwhelming. This is consistent with *Public Prosecutor v Raptick* [2023] VUSC 226. That equates to a discount of 4.5 months from the starting point.



13. You are aged 20 years and a first offender with no previous convictions. You have a de facto partner who is 6 months pregnant. You are a farmer, planting and selling kava. You acknowledge that your actions were wrong and admitted the offending to police. Given your relative youth, previous good character, and acceptance of responsibility there is to be a discount from the starting point of 2 months, which equates to approximately 10 %.
14. You were remanded in custody between 9 – 19 August 2024, a period of 10 days. That equates to an effective sentence of approximately 1 month's imprisonment. The sentence is reduced by 1 month for that factor.

**End Sentence**

15. The end sentence is 10 ½ months imprisonment.
16. Taking into account the circumstances and nature of the crime, and your character, it is appropriate to suspend the sentence under s57 of the Penal Code. While you cultivated cannabis, there is no evidence of commerciality, and you are a first offender, who accepted responsibility to police. The sentence is to be suspended for a period of 18 months. That will meet the need for deterrence, denunciation and accountability.
17. If you offend again in the next 18 months, you will need to serve the sentence of imprisonment in addition to any other penalty that may be imposed for the further offending.
18. In addition, you are sentenced to 6 months supervision, to assist you in your rehabilitation. It is well recognised that younger people have a greater capacity for rehabilitation than older offenders. You are to undertake 60 hours community work too. This combination of sentences will meet all the relevant sentencing needs.
19. The cannabis material is to be destroyed.
20. You have 14 days to appeal.

**DATED at Port Vila this 6th day of December 2024.**

**BY THE COURT**

*none*  
.....  
Justice M A Mackenzie

