

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

**Criminal
Case No. 24/849
SC/CRML**

BETWEEN: The Public Prosecutor

AND: Kenneth Jack
Defendant

Coram: Justice Aru
Counsel Ms. M. Tasso for the Public Prosecutor
Mrs. P. Malites for the Defendant

SENTENCE

Introduction

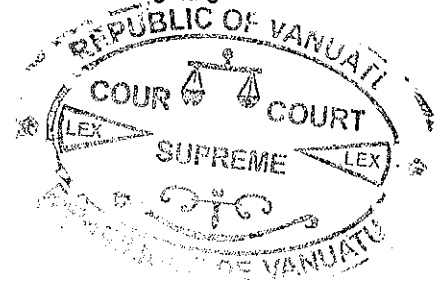
1. The defendant pleaded guilty to one count of unlawful possession of cannabis and one count of attempted sale and supply of cannabis.

The Facts

2. The Police executed a search warrant at the residence of the defendant on 1 March 2024 and found seven (7) large rolls of leave substances rolled up in newspaper and placed inside a purple shopping bag and placed under the defendant's bed. The bag also contained an ice cream container which was partly filled with some round aluminium balls containing leaf like substances.
3. At the time of the search, Police also found 11 rolls of aluminium foil containing dried leaf like substances placed inside a safety boot and kept inside the kitchen. The defendant was arrested shortly after the search at his work place. He was cautioned and interviewed on 2 March 2024 and admitted having knowledge of the substances uplifted by the police. He told the Police the cannabis would be rolled into balls covered in aluminium alfoil for sale and that he started involving himself in this activity since 2023.
4. A presumptive test on the substances was conducted by the Police on 4 March 2024 and revealed that the substances tested positive as cannabis and weighed a total net weight of 1.42 kg.

Sentence start point

5. The maximum sentence available for unlawful possession of cannabis is a fine not exceeding VT 100 million or a term of imprisonment not exceeding 20 years. Attempted sale or supply of cannabis is punishable with the same penalty. The prosecution identified a number of factors which I accept as aggravating factors. That being, the large quantity of cannabis weighing 1.42 kilograms, the intention to supply and sell the cannabis for profit. There are no mitigating factors of the offending.



6. For the attempted sale and supply of cannabis I set the starting point of sentence at 24 months imprisonment. For the offence of possession of cannabis, the starting point of sentence will be 18 months imprisonment. The total concurrent starting point of sentence is 24 months imprisonment.

Mitigating factors

7. No submissions were filed by the defendant as directed. The Pre-Sentence Report reveals the following information personal to the defendant. He is 30 years old and is a first-time offender. He lives in a de facto relationship with his partner and their two small children. He completed his education at year 8 at Epi High School but has obtained some skills in welding and assists the community with their building projects. His chief speaks highly of him as an active member of his community.
8. Taking these factors into account, I reduce the sentence start point by 8 months. I also allow a 1month deduction for the time spent in custody.
9. For the guilty plea the sentence start point is discounted by 33%.

End sentence

10. The defendant is sentenced to a concurrent end sentence of 10 months imprisonment. I then consider s57 of the Penal Code [CAP160] on the question of whether the sentence should be suspended. Considering the circumstances of this case noting the amount of cannabis involved and the fact that the defendant has been selling cannabis since 2023, I will not suspend the sentence as it would send the wrong message to the community.
11. I also condemn the confiscated cannabis and order its destruction forthwith.
12. Unless you elect to start serving your sentence immediately, you must present yourself to the Centre Manager of the Correctional Centre by not less than 4th June 2024 to begin your sentence. Should you fail to do so an application will be made to have you arrested and returned to the Correctional Centre.
13. The defendant has 14 days to appeal if he is dissatisfied with the decision.

DATED at Port Vila, this 21st day of May, 2024

BY THE COURT

Dudley Aru
Judge.

