

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

Criminal
Case No. 25/361 SC/CRML

PUBLIC PROSECUTOR

V

LINA LOUI

Date of Plea: 1st April 2025
Before: Justice Josaia Naigulevu
Counsels: Public Prosecutor – Mr. Mathias Kalwatong
Public Solicitor – Ms. Linda Bakokoto

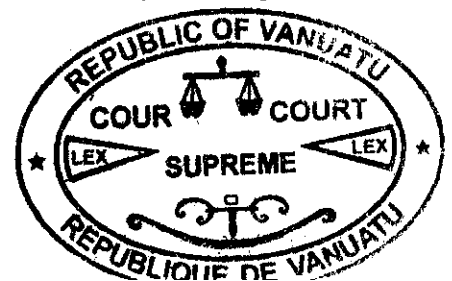
SENTENCE

Introduction

1. Lina Loui, you appear for sentence today having entered a plea of guilty and accepted the summary of facts presented by the prosecution on the 1st April 2025 relating to one count of Unlawful possession of cannabis contrary to section 2 (62) of the Dangerous Drugs Act [Cap 12].
2. A Nolle Prosequi was entered on the 2nd April 2025 against the charge of Attempted unlawful sale and supply of Cannabis.
3. You were duly convicted on your plea.

Facts

4. The facts are contained in an unredacted summary of facts filed on the 18th March 2025.
5. Fred Lakeleo, the owner of the Nakamal at Lakeleo where the defendat was renting a room, on the 2nd December 2024, reported you to the police after he saw you selling cannabis to the youths.



6. In the course of their investigations at the Nakamal, the police found a brown bag containing two large packages covered in aluminium foil, and a small plastic bag that held 54 round packages wrapped in aluminium foil.
7. The substance in the shopping bag weighed a total of 237.9 grams and tested positive for cannabis.
8. You admitted in your caution interview statement that the cannabis was in your possession and that it had been sent to you from Epi Island to sell.

Statutory Sentence

9. The maximum sentence of the offence of Unlawful possession of cannabis is term of 20 years imprisonment or VT 100,000,000, or both, the imprisonment and a fine.

Sentencing purpose and Guideline

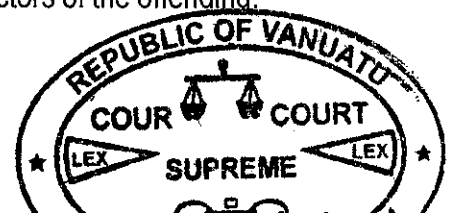
10. There are several principles that guide the sentence to be imposed on you. They include the proposition that you must be held accountable and must take responsibility for your action. Additionally, your action is the kind that is denounced by society, and that similar future acts by you and others must be deterred.
11. The approach taken in the present case follows the guidance given by the Court of Appeal in the case *Philip v Public Prosecutor* [2020] VUCA 40.

Aggravating Factors

12. The following circumstances constitute the aggravating factors in the present case:
 - a) The size of the substance discovered was of an appreciable quantity;
 - b) The substance was intended to be sold to consumers in Efate;
 - c) Your role in selling cannabis encourages the commission of offences by the growers and suppliers on Epi Island.

Starting Point

13. In assessing the appropriate starting point, I have taken into account the statutory maximum sentence, as well as the aggravating and mitigating factors of the offending.



14. I have considered the submissions of counsel as well as the authorities they have referred to for the Court's consideration.
15. Both counsels have suggested that the categories enunciated by the Court of Appeal in the case *Wetul v Public Prosecutor* [2013] VUCA are applicable to the instant case, despite the fact that the only offending in the present case was the possession of prohibited substance, and not cultivation. Your counsel, submits that your case falls into the first category. The Prosecutor on the other hand alludes to the three categories, but has not placed your case in any category.
16. This Court cannot agree with this proposition. The narration of each category specifically refers to different levels of culpability where the cultivation of cannabis plants is the offence charged. Additionally, the Court of Appeal in its introductory remarks clearly states that the guideline was intended as a "...sentencing guidance to cultivation of cannabis cases..." The offence of cultivation is legislated by section 3 of the Dangerous Drugs Act, as is by nature very different from the offence of possession, created by section 2 of the same Act.
17. The offences of possession and cultivation of cannabis are by their nature very different, and cannot therefore be treated as indistinguishable. Each of them has distinct levels of culpability and seriousness.
18. The statement of the Court of Appeal in the case *Tukone v Public Prosecutor* [1990] VUCA 9 is both instructive and helpful:

"Drug offences like any other offences against the criminal law are capable of being committed with varying degrees of culpability and seriousness..."

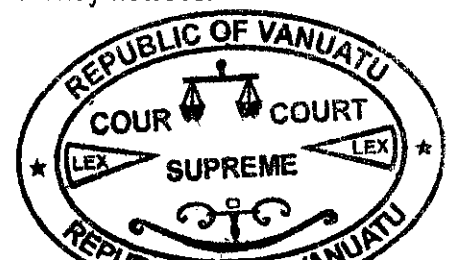
19. This Court has taken into account the aggravating nature of the offending, and several cases referred to it by counsels, including *Public Prosecutor v Pakoa* [2020] VUSC 182 and *Public Prosecutor v Napuan* [2013] VUSC 21, and adopts a starting point of 18 months.

Guilty Plea

20. You entered a plea of guilty in this Court at the earliest opportunity. As a result, you are entitled to a discount of 6 months. This period is deducted from the starting point.

Mitigating and Personal Factors

21. You are 40 years old, and have four children who you alone support. They however do not live with you.



22. You operate a kava bar business in order to support your family.
23. You have never been convicted of a criminal offence in the past.
24. These factors reduce your sentence by a further 3 months.

End Sentence

25. I have taken all these matters in consideration and impose an end sentence of 9 months.
26. Your counsel has urged me to suspend your imprisonment sentence. I agree to do so. It will be suspended for a period of 18 months. However, you are warned against re-offending over that period.
27. You are required to perform 50 hours of supervised community work and will be subject to a supervision order over the next 6 months.
28. You have 14 days to appeal this sentence.

DATED at Port Vila this 17th day of June 2025

BY THE COURT

