

PUBLIC PROSECUTOR VS. WILLIE RANTIE

Date of SENTENCE: 6th day of December, 2016 at 2:00 PM

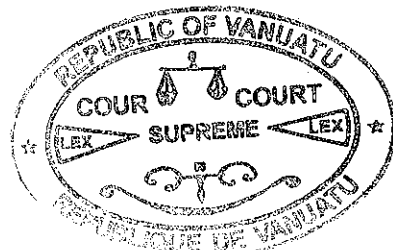
Before: James Paul Geoghegan

In Attendance: Counsel – Lenry Young for Public
Prosecutor

Counsel – Harrison Rantes for Defendant

SENTENCE

1. Willie Rantie you appear for sentence today in respect of 2 charges contrary to the Dangerous Drugs Act Cap 12. One of those charges is for possession of a prohibited substance, the other charge being cultivation of cannabis. The penalty in respect of these offences is a fine of up to VT100,000,000 and or a maximum term of 20 years imprisonment.
2. The summary of facts provided to me tells me that the charges arise as a result of a police officer on Ambrym, where you live, or did live, noticing that you had 2 cannabis plants growing in your garden. He removed those plants and brought them to the Police Station in September 2015. In August 2016 a search warrant was executed at your home and you were searched. The police found cannabis leaves, seeds and what are described as “small branches” in your pockets. You freely admitted to the police, growing cannabis for sale in order to supplement your income. The summary tells me that the material in your pockets weighed 0.14 grams and the material from your garden weighed 13.49 grams. So the amount of cannabis that was cultivated and in respect of which you were in possession is very modest indeed.
3. No pre-sentence report has been able to be prepared because the Probation Officer could not contact you. I have spoken with your counsel Mr Rantes this afternoon about that and he has spoken with you directly about whether or not you wish a pre-sentence report to be completed. You are satisfied that I can



continue with the sentencing today in the absence of a pre-sentence report and I am satisfied that I can do so. I am satisfied that I can do so in part because there are no victims of your offending and no issue of reconciliation, reparation or compensation.

4. Mr Young has prepared some careful submissions on behalf of the Public Prosecutor and he has referred to the Court of Appeal authority in **Nalo v. Public Prosecutor**¹ which emphasizes the need to provide sufficiently stern sentences to discourage offending like yours while at the same being aware of and taking into account the particular circumstances of each offence and offender. That case involved the possession of a small number of cannabis seeds which were planted and grew into plants. It is not clear how much cannabis was involved. The original 5 year prison sentence in that case was quashed by the Court of Appeal and replaced with a suspended sentences of 9 months and 6 months respectively. In the **Public Prosecutor v. Joe**² the offender was found in possession of 1.07 grams of cannabis and was sentenced to 6 months imprisonment suspended for 12 months together with 40 hours community work. And in **Wetul v Public Prosecutor**³, the Court of Appeal divided cannabis offending into 3 broad categories ranging from personal use to large scale commercial growing.
5. Mr Young submits that a starting point of 2 years is appropriate based on category 2 of **Wetul** which encompasses small scale cultivation for a commercial purpose.
6. Mr Rantes refers to the cases of **Public Prosecutor v. Phillip Pierre and Steven Kori**⁴ which involved possession of 319.22 grams of cannabis in respect of which a suspended sentence of 2 years was imposed. He also refers in his submissions to the case of the **Public Prosecutor v. Mawa**⁵.
7. Mr Rantes on your behalf submits that the appropriate penalty would be one of 4 month imprisonment suspended, together with community work. He submits that this is category 1 offending.

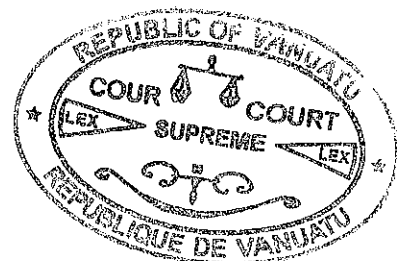
¹ [1998] VUCA 1

² [2011] VUSC 4

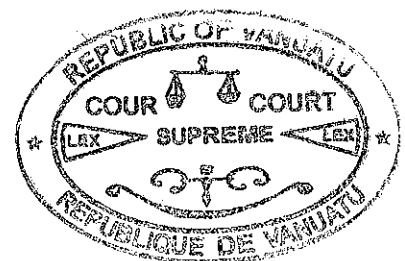
³ [2013] VUCA 26

⁴ [2012] VUSC 134

⁵ [2011] VUSC 79




8. Given your clear and open admission of cultivation for the purposes of sale, I am of the view that your offending is properly considered as category 2 offending rather than category 1 offending. But it is at the very bottom of the range. In fact the quantity of cannabis found suggests that a starting point lower than 2 years is appropriate.
9. In all of the circumstances I consider a starting point of 12 months imprisonment to be appropriate. There are no aggravating features here which would warrant an uplift. You are entitled to a 1/3 allowance for your early guilty plea. I do not consider that any further reductions are appropriate in the circumstances although I acknowledge that you are a first time offender.
10. Accordingly in respect of each charge you are sentenced to 8 months imprisonment. Those terms are to run concurrently.
11. I am satisfied that given your circumstances and the circumstances of this offending, the sentence should be suspended and it will be suspended for a period of 12 months. I am satisfied that you understand the implication of the suspended sentence the court having asked Mr Rantes to discuss that with you prior to sentencing.
12. In addition I am imposing supervision for a period of 9 months. That is on the condition that you undertake such counselling, treatment or training as directed by your Probation Officer to deal with the causes of your offending and that you complete any counselling courses or training to the satisfaction of your Probation Officer. I also impose a sentence of 60 hours community work to underline a punitive element to this offending.
13. Mr Rantie you are 32 years old. You need to stop using cannabis and you most certainly need to stop any idea that you should sell it to make income. You should get a job instead and make your money honestly. Next time you come back to this Court on a charge of this kind you will most definitely be going to prison.
14. You have 14 days to appeal.



DATED at Port Vila this 6th day of December, 2016.

BY THE COURT

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JP Geoghegan

Judge

