

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

**Criminal
Case No. 20/1841 SC/CRML**

BETWEEN: The Public Prosecutor

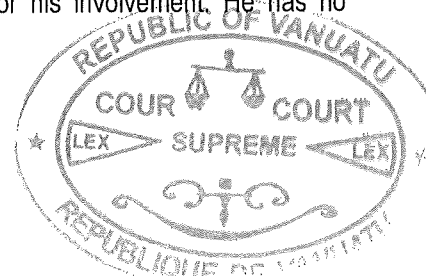
AND: Berry David , William Fred

Defendants

Date of Plea: 12th August 2020
Date of Sentence: 14th August 2020
Before: Justice Oliver Saksak
In Attendance: Mr Lenry Young for the Public Prosecutor
Mr Rollanson Willie for the Accuseds

SENTENCE

1. Berry David and William Fred you both appear for sentence today for having pleaded guilty to one charge each of possession of cannabis contrary to section 2 (62) of the Dangerous Drugs Act [CAP. 12].
2. The maximum penalty for the offence is a fine not exceeding VT 100 million or imprisonment not exceeding 20 years.
3. On 26th March 2019 the police arrested both defendants on suspicion they had cannabis in their possessions. Upon search the police found 1.111 grams of cannabis substance in Berry David's possession and 66.377 grams in William Fred's possession. These were tested with positive results.
4. All three of the defendants met up at the Unity Park on 26 March 2019 and smoked cannabis together prior to being taken to the police station by relatives.
5. Berry David is 23 years old and single but he has a 2 year old son. He his from Vunafus village, South Santo. He has low education leaving school at class 6. He earns his income from sales of kava. His interests are in playing soccer. His ambition is to purchase land to build rent houses to make business. He has good relationship with his family, his chief and community. He has quit smoking cannabis. He blamed peer pressure for his involvement. He has no



previous convictions. He has regretted his actions. He now understands it is unlawful to possess cannabis. He had a lower quantity of cannabis than William Fred had.

6. For William Fred he is 18 years old, single and living with his parents at Nanbouk village in a family of 5. He is dependent on his parents. He is a gardener growing kava and other garden crops. He sells them for a living. He left school at grade 6. His dream is to make enough money to build a standard house for the future. He is a habitual kava drinker and tobacco smoker. These led him to start consuming cannabis but he has stopped smoking cannabis after his remand in custody. He realises it is against the law and regrets his actions. He has no previous convictions. He expressed apology for breaking the law. His chances of reoffending is low. He possessed a larger quantity of cannabis than Barry David had.
7. The principles of sentencing in this type of cases are clearly laid down in Naio v PP [1998] VUCA 1 and Wetul v PP [2013] VUCA 4.
8. Possession of cannabis is unlawful and is a serious offence strong measures must be taken to discourage this offending. However each case must be considered in the light of its own facts and circumstances. Each and every case of unlawful possession of cannabis is different. And so is this case.
9. That being the position I consider that-
 - (a) For Barry David I set his starting sentence at 9 months imprisonment. Allowing 3 months for his guilty plea and another 2 months for his mitigating factors, his end sentence is 4 months imprisonment. This sentence is suspended for a period of 2 years on good behaviour under section 57 of the Penal Code Act.
 - (b) For William Fred, I set his starting sentence at 14 months and allowing 4 months for his guilty plea and a further 2 months for mitigating factors, his end sentence shall be 8 months imprisonment. His sentence is suspended also for a period of 2 years on good behaviour under section 57 of the Penal Code Act.
 - (c) If either of the defendants commit any other offences within 2 years, they will go to prison to serve their sentences.

(d) I condemn the substances in the custody of the police to destruction within 7 days from the date of this sentence.

DATED at Port Vila this 14th day of August 2020

BY THE COURT


OLIVER.A.SAKSAK

Judge

