



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

Criminal  
Case No. 22/1094 SC/CRML

**PUBLIC PROSECUTOR**  
**V**  
**YOSHUA SHING**

**Coram:** *Hon. Chief Justice V. Lunabek*

**Counsel:** *Ms Florence Sewen for the State*  
*Mr Henzler Vira for the Defendant*

**Date of Plea:** *07 June 2022*

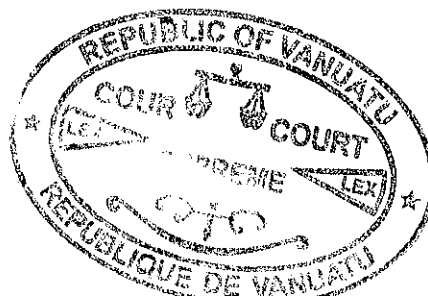
**Date of Sentence:** *8 July 2022*

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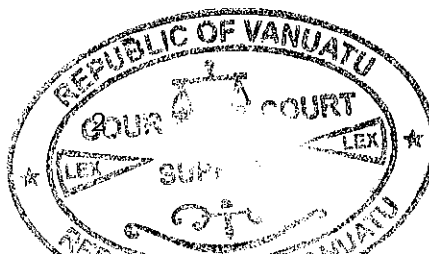
**SENTENCE**

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1. Mr Yoshua Shing, you appear for sentence today for one charge of unlawful possession of cannabis from June 2021.
2. The police arrested you on 13 June 2021. They searched you and found you were in possession of the cannabis which was later found to weigh 0.16grams. you had instantly admitted this to the police, you pleaded guilty to this offence at the first opportunity available to you.
3. The possession of cannabis is an offence against the Dangerous Drugs Act [CAP. 12]. The maximum sentence (penalty) is 20 years imprisonment or a 100 Million Vatu fine or both.
4. I have read and considered the submissions and case authorities provided by the prosecution and your own counsel on your behalf.



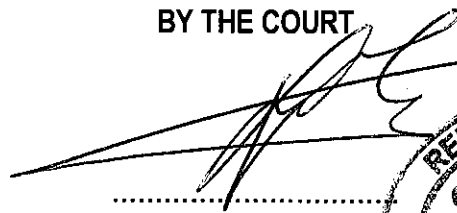
5. In your case, you were found with this small quantity of cannabis, clearly for your own use, when the police asked to search you. You allowed that search to take place without argument and have continued to cooperate with the police during their investigation and during this prosecution.
6. You have no previous convictions recorded against you.
7. Although, the prosecution submitted that your admission to smoking marijuana for a long time accounts to an aggravating feature of the offence, in the view of the court the admission of smoking marijuana for long time cannot be described as aggravating. The offence is unlawful possession not admission of "*smoking cannabis*" for a long time. Again, the prosecution submitted that "*protection of the society*" amounts to an aggravating feature, the view of the court is that "*protection of the society*" is one of the purposes of sentencing but cannot be described as aggravating. Finally, the prosecution submitted that "*the seriousness of your offending*" is an aggravating feature of the offence, in the view of the court "*the seriousness of the offence*" is reflected in the maximum sentence (penalty) imposed by law. Facts relating to the offending, need to be ascertained which increase or render the commission of the offence of possession worse or serious to make it an aggravating feature. The statement of "*the seriousness of your offending*" cannot amount to an aggravating feature without required facts of the offending to be spelled out by the prosecution.
8. In your case, a sentence starting point at the lower end of the scale found in other cases is indicated as appropriate.
9. In mitigation is the fact of your early and continued cooperation with the police, your early guilty plea, the small quantity (less than one whole gram) of cannabis on you when searched, your lack of previous conviction, the fact that you are a student (a year 10 school leaver), you are remorseful, you have good relationship with your family and community which reflected in you representing your country in sports during the Olympic Games playing table tennis.
10. Taking all the mitigation into account and the lack of any aggravating feature, an immediate custodial sentence is not indicated in this case. Nor does any terms of imprisonment suspended appear to be appropriate for this offence.



11. For this offence, you are hereby sentenced to 6 months supervision on general standard condition. This order requires you, under the supervision of the Probation Service, who may delegate this responsibility to a sponsor, to perform your 6 months supervision undertaking. You must report to the Probation Service within 72 hours of this order being made, to receive details of your supervision. Failure to follow instructions and to carry out the supervision undertaking prescribed for you will see you back to the court. Do you understand the terms of this order?
  
12. You have 14 days to appeal this sentence if you are unsatisfied with it. Order for forfeiture and destruction of illegal substance confiscated is also made.

**Dated at Port Vila, this 8<sup>th</sup> day of July 2022**

**BY THE COURT**

  
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**Vincent LUNABEK**  
**Chief Justice**

