

PUBLIC PROSECUTOR

V

TERRY SAMSON

Date of Sentence: 13th December 2022
Before: Justice D. Aru
Counsel: Josephine Tete for Public Prosecutor
Francis Tasso for Defendant

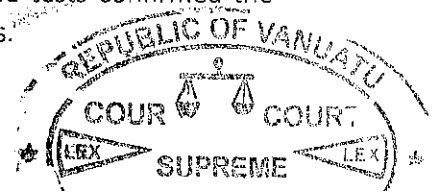
SENTENCE

Introduction

1. Mr Terry Samson pleaded guilty to one count of inciting and soliciting the sale of cannabis. This is his sentence.

The facts

2. Sometime prior to 8 May 2021, the Police were informed that some prohibited substances were being transported to Port Vila aboard MV Urata. The vessel arrived and docked in Vila around 7 or 8 May 2021.
3. On arrival, the parcels were transported to the unloading dock site at Stade area, Port Vila. The Police were present at that time to investigate the recipient of the alleged substance. Their investigations revealed that a Lolo Manses and Junior Petro were present at that time and attended to the bag containing the alleged substance. Once the two boys took the bag the Police intervened and opened the bag and found inside some dry leaf like substances covered in pieces of clothing totalling 6 bundles. The two boys were then arrested and taken to the Police station. During their cautioned interview, the two boys denied having any knowledge of the alleged substance in the bag. They told the Police the bag belonged to the defendant who instructed them to pick it up on his behalf as he was mourning his father's death.
4. The defendant was later arrested cautioned and interviewed on 9 May 2021. The defendant admitted having knowledge of the bag being sent. He was told by his uncle to pick up the parcel, retain the bananas in the bag and give the cannabis to a Peter Bong. The cannabis was covered in 6 separate packages of pieces of clothing. Each package was tagged with the price affirming its value or worth. One package had a price tag of VT 10,000.
5. The packages were tested by the Police on 11 May 2021. The tests confirmed the substance to be cannabis with a total net weight of 442.0 grams.



Starting Point of sentence

6. The starting point of sentence is assessed by considering the maximum sentence available and factoring in any aggravating or mitigating factors of the offending. Inciting and soliciting the commission of an offence carries the same punishment as the principal offence. The maximum penalty available for the sale and supply of cannabis is a fine not exceeding VT.100 million or a term of imprisonment not exceeding 20 years. The offending is aggravated by the fact that the cannabis was wrapped in clothing as a disguise and hidden in a bag of bananas. Second, the cannabis had a total net weight of 442.0 grams. There are no mitigating factors of the offending.
7. This is a case of inciting and soliciting the supply and sale of cannabis. By comparison with other cases of similar nature, the prosecution submitted that this case is less serious than *PP v Kalo* [2017] VUSC 116 as there was no sale and secondly, the defendant is simply a middle man facilitating the transfer of the cannabis. It was further submitted that the case of *PP v Andrew* [2020] VUSC 183 was more comparable to the current case however the amount of cannabis involved in the current case is smaller than in *Andrew* whose sentence was suspended. It was submitted that a starting point of 16 to 18 months imprisonment would be appropriate and the end sentence should be suspended.
8. I set the starting point of sentence at 18 months imprisonment.

Mitigation

9. The defendant pleaded guilty at the first available opportunity as a sign of remorse therefore he is entitled to a one third discount.
10. Considering his personal circumstances, no pre-sentence report was filed as directed. Defence Counsel submits that the defendant is 25 years of age and is in a de facto relationship and has a one (1) year old child and lives with his family. It was submitted that he is also a first-time offender. Taking these factors into account the end sentence is further reduced by 6 months.

End Sentence

11. The end sentence is therefore 6 months imprisonment. For now, the sentence is suspended for a period of 2 years. In addition, the defendant will perform 80 hours of community work and undertake the "Niufala Rod Program". I also order that the cannabis be destroyed immediately.
12. The defendant has 14 days to appeal if he is dissatisfied with the decision.

DATED at Port Vila this 13th day of December, 2022.

BY THE COURT

D. Aru
Judge

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