

PUBLIC PROSECUTOR  
v  
ROGER MALTOK

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

**Counsel:** M Meltebury for the State  
MB Makward for the Defendant

**Date of Plea:** 5 April 2022

**Date of Sentence:** 10 May 2023

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SENTENCE

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**A. Introduction**

1. Roger Maltok, you appear today for sentence. On 5 April 2023, you entered a guilty plea on one count of possession of cannabis contrary to Section 2(62) of the Dangerous Drugs Act [CAP. 12].

**B. Facts**

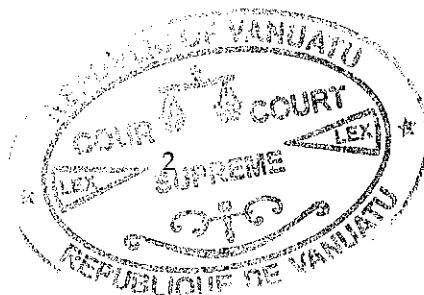
2. Roger Maltok, you are 22 years of age. You are a builder and you come from Malekula island. You are a member of Assemblies of God (AOG).
3. The complainant is a police officer. The complainant made a report to the police on 24 December 2022, alleging that on that said date, during Police Operation patrol, they suspected that you had marijuana (cannabis) in your possession.
4. The complainant's patrol team drove to Manples Area in a police truck on the 24 December 2022. The patrol team spotted you standing at the bus stop outside Au Bon Marché supermarket and decided to stop and approach you. The complainant suspected that you had marijuana in your possession at that time. The complainant searched you for marijuana around 4am.



5. The complainant searched you and discovered a purple shopping bag in the left pocket of your jacket. Inside this shopping bag, the complainant found dried marijuana matter wrapped up in a foil. The complainant then removed this substance from you and gave it to the arresting police officer.
6. You were then arrested by another police officer present in the patrol team. On the same date, the arresting police officer then took the alleged marijuana substance to the Police Station. He handed that material evidence to the next police officer in charge for further analysis along with the chain of custody from that he had signed on.
7. The alleged dried marijuana matter was then received by the drugs examination officer. He signed the chain of custody and then analysed the alleged cannabis in a chemical and botanical test. The results of the analysis indicate that the alleged marijuana matter is in fact marijuana as the chemical test solution changed to purple (which is the indicator for cannabis). The drugs examination police officer also weighed the marijuana and found its net weight to be 34.84 grams.

### **C. Sentence Start Point**

8. The offence of possession of cannabis is punishable by a fine not exceeding VT100 millions or to a term of imprisonment not exceeding 20 years or to both such fine and imprisonment.
9. There is no personal circumstances to the offending but the weight of 34.84 grams of cannabis is an aggravating factor.
10. I adopt a sentence start point of 20 months imprisonment based on the guideline judgment of the Court of Appeal in *Wetul v Public Prosecutor* [2013] VUCA 26 and the following comparable cases:
  - *PP v Kalo* [2020] VUSC 178. The offender was convicted on one count of possession of cannabis weighing 22.8 grams. A sentence start point of 10 months was imposed. A suspended sentence after reduction made on mitigating factors and 100 hours of community work;
  - *PP v Kalpukai* [2022] VUSC 104. A sentence start point imposed on one count of possession of cannabis weighing 25.5 grams. After reduction an end sentence of 8 months imprisonment suspended for 2 years and 40 hours community work.



**D. Mitigating Factors**

11. You are a first time offender. You do not have previous conviction. You have a clean record. I allow 3 months reduction to reflect your clean record.
12. You pleaded guilty at the earlier opportunity given to you. You will be given 33% reduction.

**E. End Sentence**

13. Your end sentence is 11 months imprisonment.
  14. You were remanded on 24 December 2022 and bailed on 25 March 2023. You have already spent a total of 31 days in pre-custodial period. This period will also be taken into account.
  15. Your final end sentence is 10 months imprisonment.
  16. I consider the nature and circumstances of your offending. I suspend your end sentence of 10 months imprisonment for 2 years.
  17. I explain to Roger Maltok the implication and consequence of the suspension of his imprisonment sentence. He understands.
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18. In addition, I order that you perform 50 hours of community work.
  19. You have 14 days to appeal against this sentence if you are unsatisfied with it. The 14 days starts today at the date of this sentence.

**Dated at Port Vila, this 10<sup>th</sup> day of May 2023**

**BY THE COURT**

**Hon. Chief Justice V. Lunabek**

