

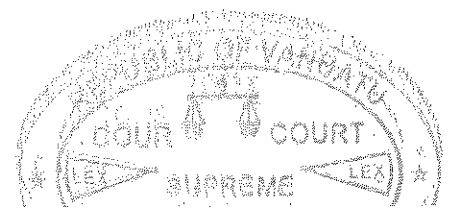
BETWEEN: PUBLIC PROSECUTOR

AND: JONAS GARAE
Defendant

Date: 22nd September 2023
By: Justice W.K. Hastings
Counsel: Mr G Simeon for the Public Prosecutor
Ms B Taleo for the Defendant

SENTENCE

1. Jonas Garae has pleaded guilty to one charge of possessing cannabis , and one charge of selling cannabis, contrary to s 2(62) of the Dangerous Drugs Act. Each offence carries a maximum penalty of VT 100,000,000 or 20 years' imprisonment, or both.
2. On 15 July 2023, Mr Garae was arrested for being drunk at the Ambae bulu school compound. He was there to watch the PENAMA Inter-secondary School Sports Association games. The arresting officer searched him and discovered some rolls and wrapped balls of cannabis in a plastic bag. The cannabis weighed 150 grams.
3. Mr Garae told the pre-sentence report writer that he sold cannabis because it was "easy money".
4. I will take a global approach in establishing a starting point for both offences because each is related to the other and forms part of the same factual background.
5. Both Mr Simeon for the prosecution and Ms Taleo for the defence submitted this case falls within category 2 of *Wetul v Public Prosecutor* [2013] VUCA 26 because the quantity of cannabis involved was for sale on a small scale. Mr Simeon submitted a starting point of 2 to 4 years was warranted. Ms Taleo submitted a starting point of 2 years was appropriate.
6. The quantity of cannabis, and its preparation into discrete smaller amounts for sale, are aggravating factors of this offending. I note that the quantity of cannabis in this case is equivalent to that in *Taviti v Public Prosecutor* [2016] VUCA 41. Mr Garae's comment that selling cannabis was "easy money" indicates an intention to make profit. He knew what he was doing was against the law but did it anyway.

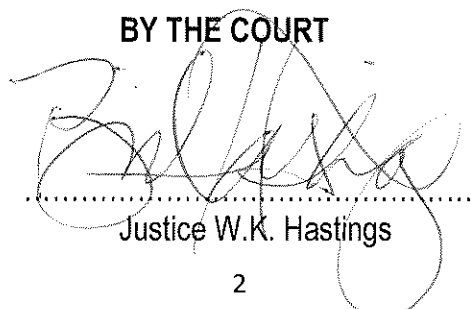


These aggravating factors place this offending in category 2 of *Wetul v Public Prosecutor* [2013] VUCA 26 and warrant a starting point of 24 months' imprisonment.

7. There are no mitigating factors to this offending.
8. I turn now to personal factors. Mr Garae is 30 years old. He has no children but has a girlfriend who is a pre-school teacher in Port Vila. At school, Mr Garae obtained skills in football and volleyball. He remained in school until form 7. He works well within his community. He is helping to build a new church house that was destroyed by the volcanic eruption on Ambae. He is a youth member of the Churches of Christ and is preparing to make an outreach to Port Vila in December this year with the youth ministry.
9. Mr Garae told the pre-sentence report writer he earns money from selling kava. He got into selling cannabis because selling kava was an unreliable source of income. He said he also smokes cannabis because he believes cannabis is a medicine that makes him fit to work. This indicates a rehabilitative or educative programme on the effects of drugs would be an appropriate part of the sentence.
10. Mr Garae has no previous convictions. He said he would like to engage in a custom process to apologise to the community and to restore his integrity. Since his arrest, and having spent 28 days remanded in custody, Mr Garae has stopped selling and smoking cannabis. The pre-sentence report writer assesses the risk of Mr Garae reoffending as low.
11. Mr Garae is to be given credit for these personal mitigating factors. I will deduct 3 months for personal factors mentioned at paragraph 8 above, 3 months for the absence of any previous convictions, 2 months for his expression of remorse and willingness to engage in a custom process and 1 month for the time already spent in custody, which brings me to 15 months. Mr Garae is also entitled to 33% credit for his guilty pleas, which brings me to an end point of 10 months imprisonment.
12. Taking into account Mr Garae's previous clean record, his willingness to apologise to the community, his decision to sell copra instead of cannabis and to stop smoking cannabis, his remorse, and the fact that he spent 28 days in custody before being released on bail, I do not consider it appropriate to impose an immediate custodial sentence. I exercise my discretion under s. 57 of the Penal Code to suspend the sentence for 12 months. Mr Garae therefore needs to remain offence-free for 12 months in order to remain in the community.
13. Mr Garae is also sentenced to 6 months supervision with a special condition to attend a rehabilitative alcohol and drugs programme.
14. Mr Garae has 14 days to appeal this sentence.
15. The drugs are to be destroyed.

Dated at Port Vila this 22nd day of September 2023

BY THE COURT


Justice W.K. Hastings

