

CF

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

**Criminal
Case No. 24/778 SC/CRML**

PUBLIC PROSECUTOR

V

AMBONG LULU

Coram: *Hon. Chief Justice V. Lunabek*

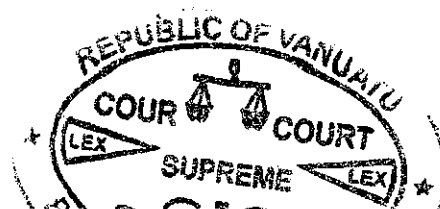
Counsel: *Mr J Aru for the State
Ms B Taleo for the Defendant*

Date of Pleas: *22 April 2024*

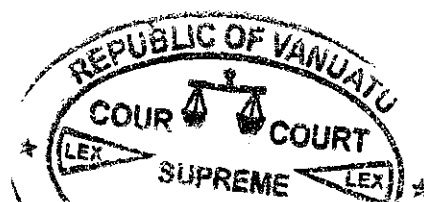
Date of Sentence: *24 May 2024*

SENTENCE

1. Mr Ambong Lulu ("Mr Lulu"), you appear today for sentence having being pleaded guilty to one charge of cultivation of cannabis plants and one charge of possession of cannabis substances, contrary to Section 4(1) and 2(62) of the Dangerous Drugs Act [CAP. 12].
2. A complaint was made against you, Mr Lulu for the offences of cultivation of cannabis plants and possession of cannabis substances. The police were informed of your activities. On that information, the police carried out an investigation on you.
3. During investigation, the police found and confiscated 67 plants of cannabis in your garden where you planted and nurture them. The police then kept for presumptive test.
4. The suspected drugs were tested. The cannabis substances that were in your possession weighed 82 grams and tested to be cannabis. The test of the cannabis plants seized from you showed to be positive of cannabis. The net weight was 5.30 kilograms.
5. You were cautioned and interviewed by the police where you admitted the allegations made against you.



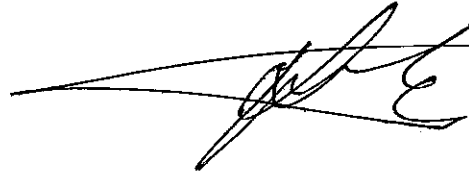
6. The offences of possession of cannabis substances and cultivation of cannabis plants carry the same maximum sentence of a fine not exceeding 100 million vatu or a term of imprisonment not exceeding 20 years or to both such fine and imprisonment.
7. This case lies under category 2 of the Wetul guidelines in *Wetul v Public Prosecutor* [2013] VUCA 26.
8. Here, there is no mitigating factors to the offending, but the following aggravating features exist:
 - (a) Mr Lulu, you have a knowledge intention of the nature of the plant in our possession as opposed to being reckless in possessing and cultivating it;
 - (b) You have in your possession 82 grams of cannabis substances and you cultivated 67 cannabis plants in your garden with a net weight of 5.30 kilograms.
9. Your sentence start point is 36 months imprisonment on the charge of cultivation of cannabis plants and 18 months for possession of cannabis substances.
10. In mitigation, you are 30 years of age. You are from Lembenwei, South West Malekula, Vanuatu. You have a wife and you have two children of 4 and 7 years of age. You sell fish and kava to support you and your family. You are a member of Presbyterian Church. You are a Year 6 school leaver. Your parents cannot pay for your school fees, so, you cannot continue with your education.
11. You are a first-time offender. You are the bread winner of your family, and your wife has problem walking.
12. I give you 3 months reduction for your mitigating factors.
13. I give you a further reduction of 33% for your early guilty pleas.
14. The remaining balance of your sentence is 14 months i.e., 1 year and 2 months imprisonment for cultivation of cannabis plants and 10 months for possession of cannabis substances. The sentences shall be served concurrently.
15. Your end sentence is 1 year and 2 months imprisonment.
16. You were remanded in custody for 3 months 5 days from 22 November 2023 to 30 January 2024. The time you have already spent must be deducted from your sentence.
17. The new remaining balance of your sentence is 11 months 24 days imprisonment concurrently.



18. I assess the nature and circumstances of the offending and your character as the offender, I decline to suspend your term of imprisonment of 11 months 24 days imprisonment is necessary for the offence of cultivation of cannabis plants as a very serious offence.
19. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts on the date of this sentence.

DATED at Luganville, Santo, this 24th day of May, 2024.

BY THE COURT



Hon. Chief Justice Vincent LUNABEK

