

IN THE SUPREME COURT OF THE
REPUBLIC OF VANUATU – Port Vila
(Criminal Jurisdiction)

Criminal Case No. 25/1308 SC/CRML

BETWEEN: PUBLIC PROSECUTOR
Port Vila

State

AND: REUBEN WILLIE
Port Vila

Defendant

Date of plea: 20 May 2025
Date of Sentence: 12 August 2025
Before: Justice B. Kanas Joshua
Counsels: Ms Romabeth Siri for the State
Ms Cecile Dehinavanua, for the defendant

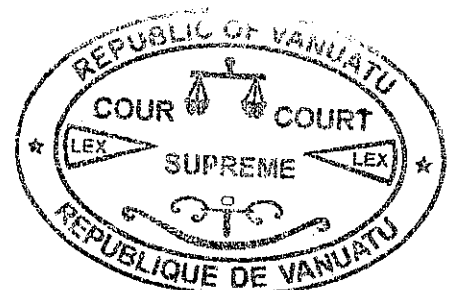
SENTENCE

Preliminary Matter

1. Prosecution made an oral submission before sentence was given that the defendant had breached two bail orders. He had absconded to Epi and did not turn up in court for two court dates. It was submitted that the defendant has proven that he is likely to re-offend and has no respect of the law, thus any mitigating factors should be disregarded because of this. The case of *PP v. Moruk*¹ was referred to, where Aru J did not suspend the sentence as the defendant had breached bail conditions and absconded. Prosecution acknowledged that the defendant in *Moruk* was charged for a different offence but it was submitted that the principle should be upheld.
2. Defence counsel responded and stated that the defendant had returned to Epi to vote in the provincial elections, and he did not know he had to inform his counsel. It was submitted that the court should consider the good cooperation of the defendant and his admission. Regarding the case of *Moruk*, it was submitted that the offence is different to the offence in the current matter and that although the offence of possession is a serious one, it falls in the lower end of the scale in *Wetul v. PP*². For these reasons, the court should exercise its discretion to suspend the sentence. Prosecution rebutted that possession falls in category 2 of scale in *Wetul*, and maintained that the principle in *Moruk* must be maintained.
3. Points raised in this oral submission is reflected in the sentencing. The court holds that the offence of possession in this case falls within category 1 but at the higher end of the scale and would attract a fine or community-based sentence. In some circumstances, it

¹ Criminal Case No. 22/1945 SC/CRML, at para [9].

² [2013] VUCA 26.



can warrant a short term of imprisonment. The court acknowledges the principle in *Moruk* and holds that Mr Willie had cooperated with the police during the investigation, and had admitted and pleaded guilty at the earliest opportunity. For these reasons, it is held that the mitigating factors will still be considered in this sentence.

Introduction

4. Mr Reuben Willie, you appear today because you pleaded guilty to unlawful possession of cannabis, and attempted unlawful sale of cannabis.
5. The maximum sentence for possession of cannabis is a term of imprisonment not exceeding 20 years, and and/or a fine not exceeding VT100 million.

Facts

6. You admitted that on 26 March 2025, sometime between 2:15pm – 2:30pm, at Forari Lape station, you were arrested by police officers and they found a rolled-up ball of aluminium foil, which contained smaller balls of aluminium foil of cannabis in your green sling backpack. The net weight was 46 grams. You admitted to selling cannabis for a living and your supplier was a friend of yours called Tom Jimmy.

Sentencing purposes/principles

7. This sentence must hold you accountable and must denounce and deter your behavior towards your family members as they can destroy the family unit. The sentence should ensure that you take responsibility for your actions and help you to rehabilitate. It must be generally consistent.

Approach to sentence

8. The sentence approach taken is in two steps, as in *Jimmy Philip v. PP*³, which applied *Moses v. R*⁴.
9. Defence referred to the sentence approach used in the case of *PP v. Andy*⁵. The sentence approach in *Andy* is no longer applicable, as the court now uses the approach in *Philip*.

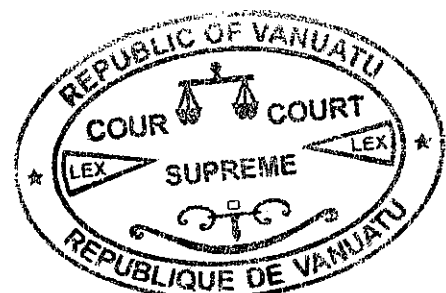
Step 1 – Starting point

10. The first step is to set a starting point. Reference is made to the aggravating and mitigating factors of the offending and the maximum penalty of the offence. The aggravating factors here are:
 - a. The defendant had the intention to sell and distribute cannabis for profit;
 - b. The defendant had admitted in his caution statement. He benefitted from the sales of cannabis to make his living;

³ [2020] VUCA 40.

⁴ [2020] NZCA 296.

⁵ [2011] VUCA 14.



- c. The defendant concealed the rolled-up aluminium balls of cannabis in his green sling backpack.
11. A mitigating factor of the offending is that the defendant willingly complied with the police during his arrest.
12. The guideline case for cannabis cultivation is *Wetul v. PP*⁶. In this case cannabis cultivation is categorized into 3 broad categories. The categorization also applies to possession of cannabis. The offending in the current case involves a small amount of cannabis, which the defendant admits to selling. This falls within category 1 but at the higher end and would attract a fine or community based sentence. In some circumstances, it can warrant a short term of imprisonment.
13. Prosecution submitted a starting point of 24 months imprisonment for attempted sale of cannabis, and 12-14 months imprisonment for unlawful possession. A suspension for 2 years, with 60-80 hours community work. They cited four cases as guides to a starting point:
- In *Jack v. PP*⁷, a starting point of 24 months imprisonment was given for attempted sale and supply of cannabis, and 18 months imprisonment for possession of cannabis. The end sentence was 10 months imprisonment which he appealed against for non-suspension. The appellant was a long-time dealer of cannabis, whose supplier was a farmer from Epi. The prosecutor in the current case submitted that the case of *Jack* is more serious and that a starting point of 2-4 years imprisonment is sufficient.
 - Secondly, in *Massing v. PP*⁸, where the starting point was 3 years imprisonment for both defendants. The end sentence after the appropriate deductions were made, one defendant was sentenced to 20 months imprisonment and the second defendant was sentenced to 18 months imprisonment. No suspension. The defendant had been engaged in selling cannabis since 2006. On appeal, the appellate court held that the starting point was high and gave a starting point of 2 years. With the appropriate deductions of personal factors one defendant was sentenced to 13 months and the second defendant 12 months. No suspension. In both *Jack* and *Massing* the offence is classified in the lower end of category 2 of *Wetul*, as there is evidence of commercial sales.
 - In the third case, *PP v. Titus*⁹, the court adopted a starting point of 14 months, resulting in an end sentence of 7 ½ months imprisonment. The end sentence was suspended for 18 months. The defendant was also sentenced to 6 months supervision and 60 hours community work for rehabilitation purposes. The defendant had cannabis wrapped in aluminium foil in his trousers which he sold to teenagers. The total weight was 50g. Prosecution submitted that the infrequent sales are an aggravating factor which should attract an uplift to the starting point.
 - In the last case *PP v. Rapuel*¹⁰, the court adopted a starting point of 12 months imprisonment, with an end sentence of 6 ½ months imprisonment, suspended for

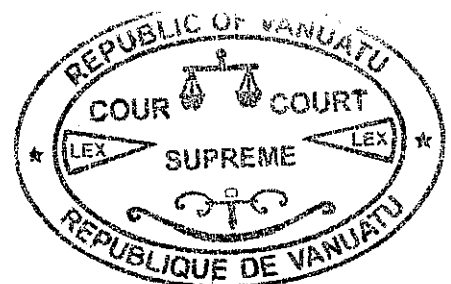
⁶ [2013] VUCA 26.

⁷ [2024] VUCA 39; Criminal Appeal Case No. 1651 of 2024 (16/8/24).

⁸ [2024] VUCA 40; Criminal Appeal Case No. 1665 of 2024 (16/8/24).

⁹ [2024] VUSC 364; Criminal Case No. 3361 of 2024 (06/12/24).

¹⁰ [2024] VUSC 274; Criminal Case No. 1662 of 2024 (12/9/24).



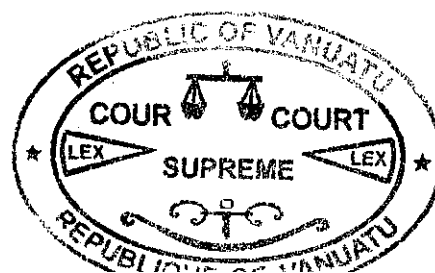
18 months. In this case, the defendant had hidden 48g of cannabis under his blanket with no evidence of commercial sales. Prosecution submitted that the current matter is more serious than *Rapuel*.

14. Defence counsel submitted a starting point of 12 months imprisonment. They supplied the case of *PP v. Robert*¹¹, as a guide to a starting point. The court adopted a starting point of 12 months for the first defendant and a non-imprisonment sentence for the second defendant. The two defendants were charged with possession of cannabis and attempted supply of dangerous drugs. They were trying to airfreight a total of 797g of cannabis to Santo when the police intercepted. This amount is significantly higher than the amount in the current case, and defence submitted that a lenient starting point be adopted as the quantity of cannabis is much less.
15. This case is similar to *Titus* cited above, however; however, the defendant in the current matter is not charged with attempted sale and supply, as in *Titus*. For this, I adopt a starting point of 12 months imprisonment.

Step 2 – Personal factors

16. The second step is to make the appropriate deductions for personal factors. There are no aggravating factors to the offender.
17. Mitigating factors are that the defendant,
 - a. Entered a guilty plea at the first available opportunity. A deduction of 25% is submitted by both prosecution and defence;
 - b. Cooperated with the police during the investigation and made admissions when cautioned;
 - c. Has no previous convictions and is a first time offender;
 - d. Is remorseful and this is reflected by his admission in the caution statement;
 - e. Time in custody from 27 March 2025 to 29 April 2025. This is a total of 33 days which is equivalent to 66 days or 2 months and 6 days imprisonment.
18. Firstly, I give a discount of 25% for the guilty plea bringing the sentence to 9 months imprisonment.
19. Secondly, I consider the other factors. You are 22 years old, unmarried and unemployed. You still live with your parents and you support them through funds you attain from gardening. You are a first-time offender and you admitted at the start that the cannabis was for your own consumption but you decided to sell to your friends. You realize that you have broken the law and understand that you can go to prison for this. For this, I give a further reduction of 6 weeks. This brings the sentence to 7 ½ months imprisonment.
20. I take into consideration the time spent in custody and make the appropriate deduction of 2 months 6 days.

¹¹ [2020] VUSC 51.



End sentence

21. Mr Reuben Willie, I am sentencing you to 5 months and 11 days imprisonment.
22. You are a young man and have many good years ahead of you. You have aspirations for a better life; however, you are heading in a wrong direction by getting involved in dangerous drugs. You are unmarried and one day you will want to settle down. This direction will not end in a good place. As you a first-time offender, I am suspending your sentence for 18 months, under my discretion in Section 57 of the Penal Code Act CAP 135. Suspending your sentence will help towards your rehabilitation. If you offend within the 12 months, you will be arrested and this sentence will be activated, in addition to any other penalty imposed for the further offending.
23. To assist with your rehabilitation, I make the following orders:
 - a. That you must do 100 hours community work; and
 - b. That you must attend an appropriate rehabilitation program with the Probation Services.
24. The cannabis must be destroyed.
25. You have 14 days to appeal.

Dated at Port Vila on this 12th day of August, 2025

BY THE COURT

