

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

Criminal Case No.31 of 2010

**PUBLIC PROSECUTOR**

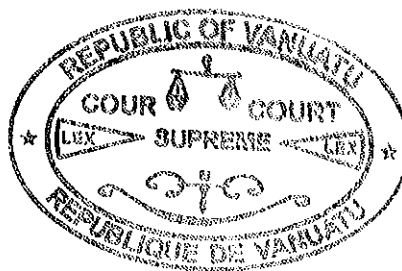
**-V-**

**SUSAN HARRY**

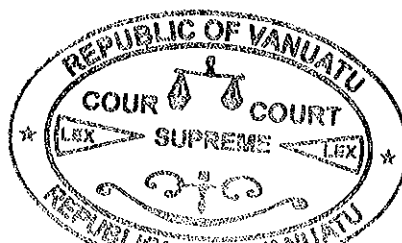
Coram: Justice D. V. Fatiaki  
Counsels: Mr. L. Malantugun for the State  
Mr. A. Bal for the Defendant  
Date of Sentence: 2 September 2011

**SENTENCE**

1. On 26<sup>th</sup> August 2011 the defendant pleaded guilty to cultivating 2 cannabis plants at Tomali Village area, South Epi island in 2009.
2. The offence was discovered when an informant at Tomali advised a visiting police officer that he had seen marihuana plants growing in the defendant's garden. The police officer went to the garden where he saw the plants and after confirming from the defendant that she was cultivating the 2 cannabis plants measuring between 1 -2 metres in height, he up rooted the plants and sent them to Vila for forensic analysis.
3. Tests confirmed that the plants were cannabis sativa and yielded 68 grams of dried cannabis leaves.
4. Investigations were carried out and the defendant was interviewed by the police under caution and she admitted cultivating the plants out of curiosity from unfamiliar seeds she had found wrapped in white paper.



5. On the basis of the foregoing facts which the defendant admitted she was convicted as charged for an offence of Cultivation of Cannabis and a pre-sentence report was ordered.
6. I am grateful for the assistance provided in the defendant's pre-sentence report which discloses the following personal circumstances of the defendant:
- She is originally from Paama island but now lives with her defacto husband and four children at Tomali Village in South Epi island;
  - She is 40 years of age and has only had primary school education;
  - She depends mainly on copra as her main source of cash income;
  - She is not a user of kava, alcohol or cannabis and is a first time offender;
  - She now realizes the seriousness of what she did and very much regrets her actions;
  - Since her committal, she has spent a total of over 6 weeks remanded in custody which has kept her away from her home and family especially, her youngest daughter who is 6 years of age and suffers from a heart problem;
7. The Probation Officer notes that *"the defendant expressed insight into her offending and is highly motivated not to re-offend she has the support of her family, community, church and chief"* who have offered to assist the defendant to re-integrate into the community.
8. After careful consideration I am satisfied that this is **not** a case that calls for an immediate sentence of imprisonment. Indeed having regard to the



circumstances, including, the isolated unusual nature of the offence; the hitherto good character of the defendant as well as her plea of guilty and the probation officer's recommendations, I consider that this case can be justly and adequately dealt with by an order under **Section 56** of the **Penal Code**.

9. Accordingly, Susan Harry, I am releasing you today on an order that you are to appear for sentence in this case if called upon to do so within the next 12 months and subject to the following 3 conditions:

(a) That you shall return to Tomali Village at South Epi and not leave Epi without advising the police officer stationed at Tongoa;

(b) That you shall refrain from committing any further criminal offences and, in particular, offences involving the possession and cultivation of marihuana seeds or plants; **and**

(c) That you will appear for sentence if called upon by the Court.

10. The meaning and effect of this order is that if you, Susan Harry stay out of trouble and do not give the Court reason to call upon you to be sentenced in this case within the next 12 months, then you will be released from this Order and will not be sentenced for the present conviction. Whether or not that occurs is entirely in your hands.

**DATED at Port Vila, this 2<sup>nd</sup> day of September, 2011.**

**BY THE COURT**

  
**D. V. FATIAKI**  
Judge.

