

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

Criminal Case No. 72 of 2011

PUBLIC PROSECUTOR

V

ZINA KENSEN

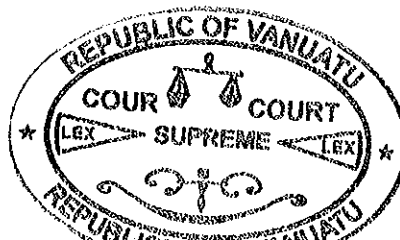
Coram: Justice D. V. Fatiaki

Counsels: Mr. T. Garae for the Public Prosecutor
Mr. E. Molbaleh for the Defendant

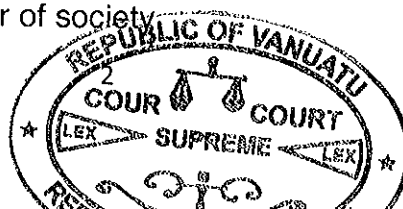
Date of Sentence: 6 July 2012

SENTENCE

1. The Defendant Zina Kensen pleaded guilty to a single count of Possession of Cannabis on 7 June 2012 she was convicted and was remanded in custody to enable a Pre sentence report to be prepared.
2. The brief facts of the case are that the Defendant was arrested at Star wharf where she wanted to pick up cargo from the "M.V Makos" which had been sent to her from Malekula. In her carton were five rolls of dried leaves concealed under some fruit. The leaves were weighed and tested at the Police Station Forensic Unit and found to be cannabis with a combined weight of **325.17 grams**.
3. **Section 2(62)** of the **Dangerous Drugs Act** [CAP. 12] makes possession of cannabis in Vanuatu an offence punishable with a fine of up to VT100 million or a term of up to 20 years imprisonment or to both a fine and imprisonment. The penalties for the offence is an indication of how serious Parliament considers it to be.
4. I am grateful to the Probation Officer for the comprehensive pre-sentence report provided to the Court and from which I extract the following personal details of the defendant:
 - She is originally from Malekula and is the only child in her family;
 - She attended primary school in Malekula and secondary at Onesua Presbyterian Secondary School. She attended Vila City College and in 2007 the Vanuatu Institute of Technology where she undertook tourism courses;



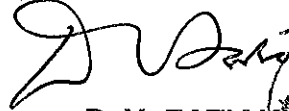
- From 2008 to 2011 she was employed by Green Power and presently attends classes at the Vanuatu Chamber of Commerce and Industry;
 - She is 24 years of age and the sole parent to two young children aged 4 and 2;
 - She is a first time offender and has never used or dealt in any way with cannabis;
 - She was remanded for 6 days in the Women's Correctional Centre.
5. The defendant's report speaks highly of her desire to rehabilitate herself and the valuable lessons she has learnt from her brief incarceration. It recommends a community based sentence such as supervision and community work.
 6. This recommendation is also supported in defence counsel's sentencing submissions who also accepts that a suspended sentence of imprisonment is also appropriate.
 7. Prosecuting counsel in agreeing to a suspended prison term highlights the significant aggravating factor in this case, namely, the weight of the cannabis involved which is significant on any score.
 8. Zina Kensen having carefully considered the submissions and the pre-sentence report I am satisfied that this offence was "*out of character*" and, in one sense, was involuntarily committed by you even though you were aware of the contents of the carton before you received it.
 9. You pleaded guilty to the offence in Court and admitted it to the police on being arrested. You are a first offender and having experienced a short spell in remand I am satisfied that you have learnt a salutary lesson and are genuine in your desire not to re-offend and to become a good and law-abiding member of society. You have also demonstrated a commendable desire to better your opportunities by furthering your education.
 10. In all the circumstances I agree with the various recommendations and submissions and I impose a sentence of 18 months imprisonment suspended for 2 years and 50 hours of community work.
 11. I should warn you however, that if you re-offend in the next 2 years and are convicted you will be required to serve this sentence of 18 months imprisonment as well as any other sentence you may receive for your re-offending. Needless to say if you do re-offend then you cannot expect the same leniency that the Court has extended to you on this occasion.
 12. I am also confident that if you stay out of trouble for the next 2 years there is every prospect that you will become fully rehabilitated and will go on to be a useful and productive member of society.



13. You have 14 days to appeal if you do not agree with this sentence.
14. For Completeness I direct that the 325.17 grams of the cannabis seized from this Defendant be destroyed within 7 days.

DATED at Port Vila this 6th day of July 2012.

BY THE COURT


D. V. FATIAKI
Judge.

