

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

ROBERT SOLOMON

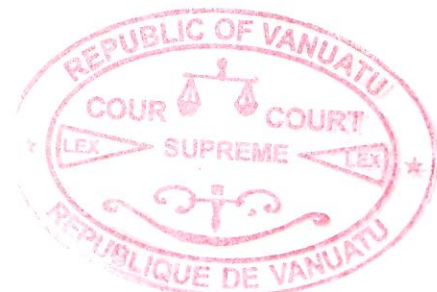
Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mr P. Wirrick for Public Prosecutor
Miss J. Tari for Defendant

Date of Hearing: 3rd August 2012
Date of Sentence: 14th August 2012

SENTENCE

1. Robert Solomon, on 3rd July 2012 you pleaded guilty to one count of unlawful possession of cannabis contrary to section 2(62) of the Dangerous Drugs Act Cap 12; and to one count of Driving When Under Influence of Drink or Drugs contrary to section 16 of the Road Traffic (Control) Act Cap 29.
2. The drug offence carries a maximum of a fine not exceeding VT100 Million or a term of imprisonment of not exceeding 20 years or to both such fine and imprisonment. The traffic offence carries a maximum penalty of VT10.000 or imprisonment not exceeding 1 month, or to both such fine and imprisonment.
3. On 3rd May 2012 at about 1 O'clock p.m you were involved in a traffic accident near the Fire Station adjacent to the Police Headquarters in Luganville, by colliding with another vehicle. When the police apprehended you and searched you, they found a white paper in your



left pocket of your trousers which contained leaves which when tested were confirmed to be cannabis. The net weight of the leaves was given at 7.295 grams. You were drunk at the time. You do not dispute or challenge those facts.

4. The case of Public Prosecutor v. Sope [2004] VUCA 14 lays down a useful guide to follow in cases of drug offences. The defendant in that case was found with a plastic containing 9.55 grams of marijuana and also 0.80 grams in powder form. The Supreme Court sentenced him to 3 months imprisonment suspended for 12 months. On appeal the Court of Appeal confirmed and upheld the sentence of 3 months with suspension for a period of 12 months.
5. Both the Public Prosecutor and defence Counsel referred the Court to the Case of Sope and urged the Court to impose a sentence of imprisonment with suspension. The Prosecutions submitted a sentence of 6-10 months suspended with supervision on conditions for 1-2 years. Defence Counsel submitted the region of 3 months imprisonment before any uplifts or mitigation should suffice.
6. On the basis of Sope's Case it clear that the only appropriate sentence in respect to the drug charge in Count 1 will be a custodial sentence of two months imprisonment suspended for 12 months. This lower sentence is imposed in light of the small quantity of 7.295 grams compared to 9.55 grams and 0.80 grams (of powder) in Sope's Case.
7. In respect to the traffic charge in Count 2 it is a separate offending. Had the defendant refrained from driving under the influence of alcohol or drugs there would not have been an accident. The decision to drive whilst drunk was his and was deliberate. Drivers must know as part of their driving lessons that driving whilst under the influence of alcohol is



a statutory offence. Therefore, drivers who find themselves in such a situation cannot have any excuse but can expect to be punished appropriately.

8. The Prosecution submitted that any sentence imprisonment imposed on the defendant for driving whilst drunk should be served concurrently. Defence Counsel concurred. The Probation Officer recommended a Supervision with special conditions. However, this recommendation is declined.
9. The defendant is now a mature person of 22 years old with a defacto wife and a 15 months old son. He must understand that he owes a greater responsibility to his defacto wife and son and he needs to keep away from peers who would lure him away from those responsibilities. He does not need any supervision so as to place further financial burden on the State. He has committed a statutory offence deliberately and therefore he must face the lawful consequences of either an imprisonment term or a fine. In my view a fine will be the most appropriate punishment for the defendant in respect to the Drink/Driving charge. I therefore sentence you Robert Solomon to a fine of the maximum of VT10.000. You must pay this fine within 14 days from the date hereof. In default, you will go to prison for 1 month.
10. In summary, you are sentenced as follows –
 - (a) Count 1 – Unlawful Possession of Cannabis – 2 months imprisonment suspended for 12 months or 1 year.
 - (b) Count 2 – Driving Whilst Drunk – A fine of VT10.000 within 14 days. In default, imprisonment for 1 month.



11. These sentences serve the following purposes:-
- (a) To deter you and others from committing these offences.
 - (b) To mark the gravity of your offendings.
 - (c) To mark public disapproval of your actions.
 - (d) To protect other road users.
 - (e) To punish you adequately.
12. You have a right of appeal within 14 days if you so choose.

DATED at Luganville this 14th day of August 2012.

BY THE COURT


OLIVER A. SAKSAK

Judge

