

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

MASSING BONG

Mr Justice Oliver A. Saksak

**Mr P. Werrick for Public Prosecutor
Miss J. Tari for the Defendant**

SENTENCE

1. Massing Bong, you pleaded guilty to one charge of Unlawful possession of cannabis on 10 December 2012. This is an offence under Section 2(62) of the Dangerous Drugs Act [Cap 12] (the Act).
2. The maximum penalty for this offence is a fine not exceeding VT100 Million or imprisonment of not exceeding 20 years or to both.
3. The facts are simple and you have accepted these. On the night of 16 November 2012 you had been drinking kava. Later you left the kava nakamal and was caught by two police officers smoking marijuana. They searched your person and found marijuana leaves and seeds. On 17 November 2012, you made a statement to the Police admitting you had cannabis leaves and seeds. You have said that you bought these from a Big Bay man named Sumbue.
4. The Police tested the substance and confirmed they were cannabis substances.
5. In assessing punishment the Court considers the facts, your pre-sentence reports and the submissions of Counsel.



6. The Court notes that the quantity of the drug is not specified. However, the Court notes also that from your version of the facts these came into your position as a result of a commercial transaction. You admit in your statement, you knew it is against the law but you deliberately engaged in it. That adds to the seriousness of your offending.
7. The Court has always been guided by the principle of sentencing as laid down in Tuk Sope v. Public Prosecutor.
This case applies to your case.
8. You are a first time offender and you are a young man. Your Pre-Sentence Report recommends a Sentence of Supervision but it is not appropriate. The Court must instead award a penalty that acts as a deterrence for you and for others.
9. The appropriate sentence should be a custodial one but it should be suspended. The Court therefore convicts and sentences you to 3 months imprisonment suspended for a period of 12 months.
10. You must understand that during the next 12 months from today you must not engage yourself with cannabis either by possession, cultivation, supplying or selling of the substance for yourself or for and by someone else. If you do, you must understand that you will go directly to jail to serve your 3 months Sentence.
11. That is the Sentence of the Court. You have a right of appeal within 14 days if you so choose.

DATED at Luganville this 5th day of February 2013.

BY THE COURT


OLIVER A. SAKSAK
Judge

