

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU

(Criminal Jurisdiction)

Criminal Case No. 27 of 2013

PUBLIC PROSECUTOR

V

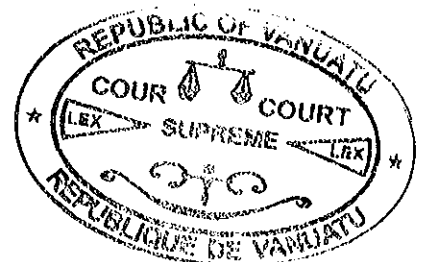
EDION MOLI
ESRIE SANDIE
ALICK KALOPAS
LANSEN WILLIE
FRED JOHN
BICE TOVO
SAM AMAN
ITEP BICE
ISEN BICE
JACK MASSING
IRA JOE
KORMAN WILLIE
TAULU BICE

Coram: Judge Aru

Counsels: Mrs. T. Harrison for the Public Prosecutor
Mr. A. Bal for the Defendants

SENTENCE

1. This is the sentence of the above named Defendants.
2. The summary of facts presented by the Prosecution is that on 12 April 2013 at Melip Village on Malekula, a joint operation by the Police Force led to the discovery of cannabis plants grown by the Defendants in their gardens. The plants were tested and confirmed as cannabis. The Defendants were then arrested and brought to Port Vila.

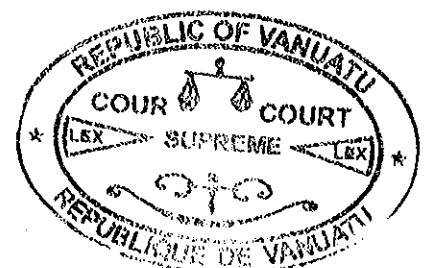


3. On 7 May 2013 all the Defendants pleaded not guilty to one count of possession of cannabis contrary to section 2 of the Dangerous Drugs Act [CAP 12] ("the Act") and one count of cultivation of cannabis contrary to Section 4 of the Act.
4. The Defendant Taulu Bice also pleaded not guilty to one count of sale of cannabis contrary to section 2 of the Act. On 12 June 2013, the Defendants were re arraigned and all entered guilty pleas to the same counts and were convicted accordingly. The Defendant Taulu Bice maintained his not guilty plea on the one count of sale of cannabis. The Prosecutor then entered a Nolle Prosequi on this count.
5. In sentencing you today, I have taken into account the submissions made by the Public Prosecutor and defence counsel on your behalf. Cultivation and possession of cannabis plants by anyone in Vanuatu is a criminal offence. Parliament enacted the Dangerous Drugs Act to make these types of activities illegal and the penalty for anyone found guilty for an offence under this Act is a fine not exceeding VT 100 million or a term of imprisonment not exceeding 20 years or to both fine and imprisonment.
6. The Court of Appeal in *Naio v Public Prosecutor* [1998] VUCA 1 made it very clear that-

"As to the concern that drug offences are serious matters and the law must provide stern measures to discourage such offence, we entirely agree. We agree also that the Courts must reflect the seriousness which the law places on drug offences through the sentences they imposed on people who commit such offences.

Having said that, however, the Court must always bear in mind the particular circumstances of a given case before it, as each case must be considered in the light of its own facts. Sentences which Courts impose must be appropriate according to the circumstances of the particular case."

7. Section 37 of the Penal Code as amended provides -



“ If an offender is convicted of an offence punishable by imprisonment, the court must in addition to other sentencing options it may impose, have regard to the possibility of keeping offenders in the community so far as that is practicable and consistent with the safety of the community.”

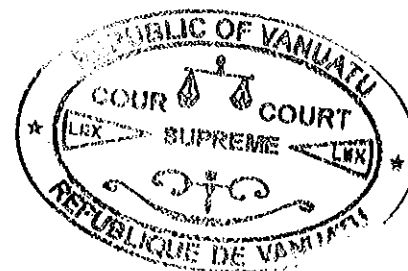
8. Noting what the courts have said in the past, I am mindful that whatever sentence I impose on you today must not only be punishment for your crimes but more importantly it must serve as a deterrence to your further offending and also be a deterrence to others.
9. As no pre sentence report was filed, Counsel on your behalf in mitigation informed the court that each of you had no intention to plant cannabis but only did so when you saw others planting cannabis so you decided to do the same. Being remanded in custody has made you realize your mistake and you intend to change your life for the better.

a) Edion Moli

10. You are 19 years old and you left school at class 3. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of 173 cannabis plants.
11. I sentence you to 2 years imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 1 year 9 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.

b) Esrie Sandie

12. You are 25 years old and you completed school at class 6. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of 10 cannabis plants.



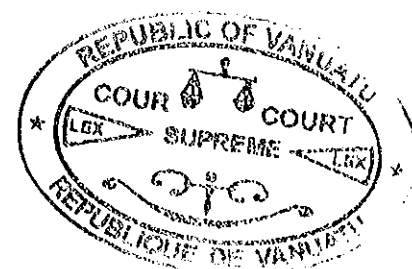
13. I sentence you to 15 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 12 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 80 hours of community work.

c) Alick Kalpoas

14. You are 53 years old and you are married with four children. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of 25 cannabis plants.
15. I sentence you to 18 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 15 months imprisonment which I suspend for a period of two years . If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.

d) Lansen Willie

16. You are 46 years old and you are married with four children. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of 25 cannabis plants.
17. I sentence you to 18 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 15 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.



e) Fred John

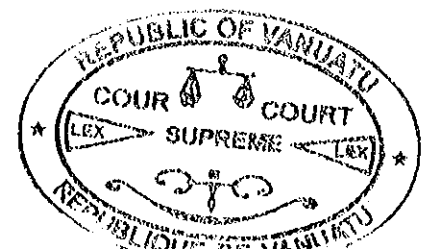
18. You are 37 years old and you are married with five children. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of 19 cannabis plants.
19. I sentence you to 18 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 15 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.

e) Bice Tovo

20. You are 59 years old and married with two children. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of 17 cannabis plants.
21. I sentence you to 18 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 15 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.

f) Sam Aman

22. You are 30 years old and married. You left school at class 6. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of 2 cannabis plants.
23. I sentence you to 15 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 12 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to



serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.

g) Itep Bice

24. You are 16 years old and you left school at class 4. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of some cannabis plants.
25. I sentence you to 15 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 12 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 50 hours of community work.

h) Isen Bice

26. You are 33 years old and you are married with one child. You left school from class 1. You were convicted of cultivation and possession of cannabis plants weighing 1.2kg. This is not your first offending. You have obviously not been deterred by your earlier offending. I sentence you to 12 months imprisonment with effect from the date you were remanded in custody.

i) Jack Massing

27. You are 26 years old and you left school at class 6. You are a first time offender with no previous convictions. You were convicted of cultivation and possession of cannabis plants weighing 6kg.
28. I sentence you to 15 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 12 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 80 hours of community work.



j) Ira Joe

29. You are 22 years of age and you left school at class 6. You are a first time offender with no previous convictions .You were convicted of cultivation and possession of some cannabis plants.
30. I sentence you to 15 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 12 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.

k) Korman Willie

31. You are 19 years old and you left school at class 6. You are a first time offender with no previous convictions .You were convicted of cultivation and possession of cannabis plants weighing 16kg.
32. I sentence you to 18 months imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 15 months imprisonment which I suspend for a period of two years. If you reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.

l) Taulu Bice

33. You are 43 years old and you are married with five children. You are a first time offender with no previous convictions .You left school at class 6. You were convicted of cultivation and possession of 86 cannabis plants.
34. I sentence you to 2 years imprisonment. Time spent in custody which is rounded off to 3 months is deducted leaving you with an end sentence of 1 year 9 months imprisonment which I suspend for a period of two years. If you

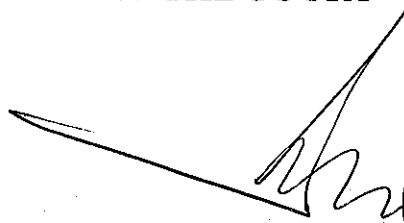


reoffend during this time your sentence will be reactivated and you will have to serve the full sentence in custody. In addition to your suspended sentence, you are to do 100 hours of community work.

35. Any cannabis held as exhibits are ordered to be condemned within 14 days.
36. You have 14 days to appeal your sentence if you are not happy with it.

DATED at Port Vila this 9 day of July, 2013.

BY THE COURT



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D. ARU
Judge

