

Registry

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

Criminal Case No. 114 of 2014

PUBLIC PROSECUTOR

V

DONDON NOEL

Coram: *Mrs. Justice M.M.Sey*

Counsel: *Mr. Ken Massing for Public Prosecutor*
Mr. Junior Garae for the Defendant

Date: *22nd August 2014*

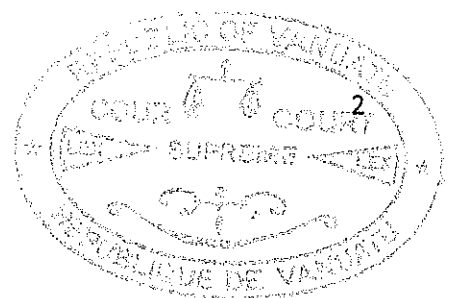
SENTENCE

1. On the 18th day of August 2014, the defendant **Dondon Noel** was convicted by this Court after he pleaded guilty to one count of unlawful possession of cannabis contrary to section 2(62) of the Dangerous Drugs Act [CAP 12].
2. No dispute is taken as to the summary of facts presented by the prosecutor. The net weight of the cannabis is said to be 0.372 grams and it was found in the defendant's pocket.
3. The Court had ordered a pre-sentence report to be prepared on the defendant and this Order was complied with. I am grateful to the correctional services for its assistance in this regard. I have also found the sentencing submissions filed by both the prosecutor and defence counsel very useful.
4. I have perused the pre-sentence report which outlines the defendant's personal circumstances as follows:



Mr. Noel is 20 years old and he is a first time offender. His home island is Mota Lava but he was brought up by his grandparents at Second Canal Area in Luganville, Santo during his childhood and after the separation of his parents who now have new partners.

5. I have also noted the following matters which I find significant:
- The defendant is a very quiet and good boy.
 - He is a year 10 leaver and he had commenced preliminary studies through the University of the South Pacific but withdrew to pursue a temporary job with Digicel Vanuatu in May 2014.
 - Prior to commencing his studies, he had worked in a private garage assisting with general duties until 2012. Through this he acquired skills in mechanism and also carpentry and joinery by assisting his grandfather with his carpentry and joinery firm. His determination is to pursue his father's profession as a mechanic.
 - He is unemployed but supports his grandparents with home chores and joinery work to sustain a livelihood.
 - He is a member of the Presbyterian Church.
 - He blames his parent's separation as well as his peer group as contributing factors to his consumption of alcohol and cigarettes and marijuana.
6. In arriving at my sentence, I have taken into consideration a number of mitigating factors, namely:
- a) Mr. Noel immediately admitted his offending and cooperated well with Police.
 - b) He has pleaded guilty at the first opportunity.
 - c) A first time offender with no prior convictions.




- d) Good work and school history.
 - e) He is very remorseful and regrets his actions.
 - f) He blames his parent's separation as well as his peer group as contributing factors leading to his consumption of alcohol and marijuana.
7. The prosecutor has referred me to section 17 of the Dangerous Drugs Act which provides the penalty for contravention of the Act and he has submitted that a sentence of 5 - 6 months imprisonment, which could then be suspended, would be appropriate.
 8. Having taken into consideration relevant case authorities such as **Public Prosecutor v Tuk Sope (2004) VUCA** and **Public Prosecutor v Mark Tining & Henry Tining, Criminal Case No. 01 of 2014**, and having considered the aggravating and mitigating factors as shown in the pre-sentence report, I am of the view that this case can appropriately be dealt with by a sentence of community work.
 9. In the circumstances, **Dondon Noel** you are hereby sentenced to carry out 40 hours community work coupled with supervision. You are also to undertake "Niufala Rod Prokram."
 10. The said sentence recognizes your early guilty plea. Nonetheless, you are neither to re-offend in this manner nor commit any other criminal offence from now on.
 11. You have 14 days within which to file a notice of appeal against this sentence if you do not like it.



12. The Court also hereby Orders that the cannabis found in the defendant's possession be condemned in accordance with section 18(1)(b) of the Dangerous Drugs Act [CAP 12].

DATED at Luganville, Santo this 22nd day of August 2014.

BY THE COURT


M.M. SEY
Judge



The seal is circular with the text "COURT OF APPEAL" at the top, "COURT OF APPEAL" at the bottom, and "REPUBLIC OF VANUATU" in the center. It features a central emblem with a scale of justice and a book.

SUPREME COURT OF THE REPUBLIC OF VANUATU

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ORDER FOR SENTENCE OF COMMUNITY WORK

(Section 58 A Penal Code Amendment Act 2006)
(Section 58 B Penal Code Amendment Act 2006)
(Section 58 N Penal Code Amendment Act 2006)
(Delete not applicable)

Name: DONDON NOEL

DOB: 03/03/1994

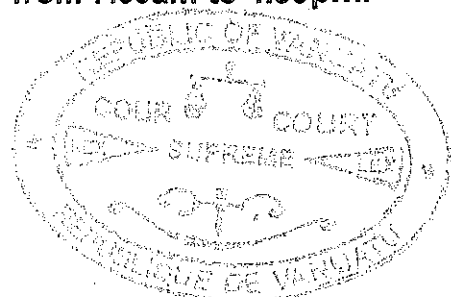
Residential location: Banban 2 Area, Luganville, Santo.

At a sitting of the Supreme Court at Luganville, Santo this 22nd day of August 2014 you were sentenced to 40 hours of Community Work.

Case Number	Offences
114/2014	1. Unlawful Possession of Cannabis, c/s-2(62) of the Dangerous Drugs Act Cap 12.

The Penal Code Amendment Act 2006 requires you to;


1. Report to a Probation Officer as soon as practicable and no later than 72 hours, after sentence is passed.
2. Report to a Probation Officer as directed at any other time during the sentence for the purpose of monitoring the sentence.
3. Notify a Probation Officer, within 72 hours, if you move to a new residential location.
4. Work as directed by the Probation Officer until the total number of community work hours is finished.
5. Perform Community Work every Sunday from 7.30am to 4.30pm.




Other rules of Community Work sentence will be explained to you when you meet your Probation Officer.

DATED at Luganville this 22nd day of August 2014.

BY THE COURT


M.M. SEY
Judge



The seal of the Republic of Vanuatu Supreme Court is circular. It features a central emblem with a scale of justice and a book. The text 'REPUBLIC OF VANUATU' is written along the top inner edge, and 'REPUBLIQUE DE VANUATU' along the bottom inner edge. In the center, the words 'COUR SUPREME' are written in a semi-circle, with 'COURT' on either side. The word 'LEX' is written on the right side of the inner circle.

NOTE FOR COURT: If the sentence is cumulative on an existing sentence of Community Work please state case number: _____