

**PUBLIC PROSECUTOR**

- v -

**WILLIAM WAHA**

*Coram: Vincent Lunabek – Chief Justice*

*Counsel: Mrs Matariki Losana and Ms. Betina Ngwele for Public Prosecutor  
Mr Jacob Kausiama for Defendant*

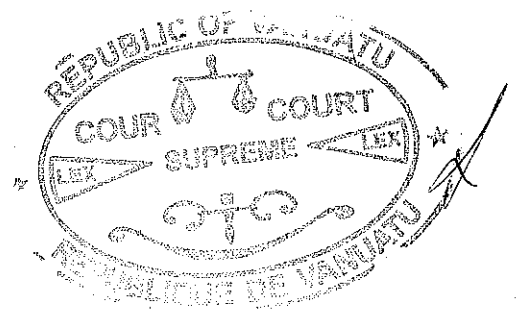
*Date of hearing: 18 May 2015  
Date of decision: 19 May 2015*

**SENTENCE**

Mr William Waha, you are from lakwelin Village inside Epkesip area, South West Tanna. You appear today for sentence after entering a guilty plea to one count of possession of cannabis, contrary to s. 2(62) of Dangerous Drugs Act [Cap 12].

The law says that no person shall have in his possession in Vanuatu substances and materials of cannabis and the law prohibits them (sections 2(62) and 3). If a person is in breach of the law by being in possession of cannabis substances or materials, the law provides a penalty of payment of a fine of vatu 100,000,000 or an imprisonment sentence of 20 years or both imprisonment and fine (section 17).

Your sentence in this case will depend on the circumstance and seriousness of your offending. The brief facts of your offending are this.

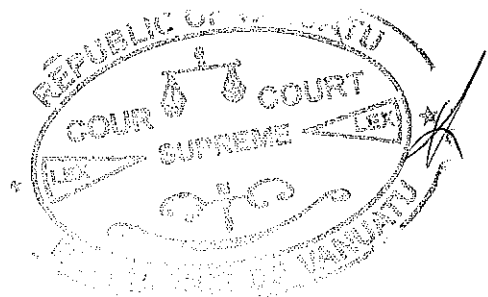


You are from lakwelin Village of Epkesip area, South West Tanna. You are a farmer planting kava and other root crops for substance and you sell them to sustain you and your family.

On 7 May 2012, a complaint was laid against you for being in possession of two parcels of dried cannabis leaves. You have cannabis with you and you brought them with you at Lenakel, Tanna. You admitted having in your possession two parcels of cannabis leaves. You further confirmed bringing cannabis leaves into Lenakel to sell to people but that none has been sold because before you did any selling, you were arrested by the police. The cannabis substances in your possession were seized and weighed 59 grams.

The prosecution submitted that the sentence I am going to pass on you will be one of a suspended imprisonment sentence of 1 year and you shall serve additional sentence of community work. The prosecution refers the court to the following case authorities: PP v Annais Bule, Criminal case No. 8 of 2006; PP v Sope [2004] VUCA 62; PP v Naio & others [1998] VUCA 1.

Your lawyer tells the court that you are 53 years old. You are married with 8 children. Five of your children are married. You are now a grandfather. You come from the village of lakwelin, situated at foot of mount of Tokosmerai. You are not a religious man but you live according to your custom. You are a simple village man. You do subsistence gardening for food and you often sell kava and other root crops in the market to buy clothes, knife, kerosene and other things needed. You are uneducated and you instruct your lawyer to tell the court that you never know that being in possession of cannabis is illegal, but now you know. You are ashamed of your actions and apologize to the court. You said you will never come before the court again. You



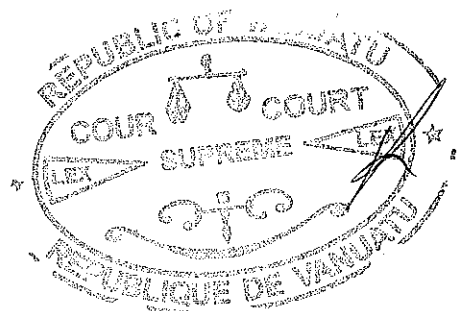
further instruct your lawyer to tell the court that you were naively led by George lakei to have in your possession the cannabis substances and you accept that you were wrong and you will accept any punishment given by the court.

Your lawyer submitted on your behalf for an appropriate sentence of 1 year imprisonment as your starting point sentence and to be suspended with additional sentence of community work. In the process of your sentencing, your lawyer submitted that the court should reduce your total imprisonment sentence of one third for your guilty plea at the first opportunity given to you by the court plus other mitigating factors.

In this case, your lawyer agreed with the facts and the submissions of the Public Prosecutor of a custodial sentence of one year as a starting point sentence and to be suspended with additional community sentence.

I bear in mind of the sentencing guidelines for cannabis offending in PP v Naio and others [1998] VUCA 1; PP v Columbus Wetul v Public Prosecutor [2013] VUCA 26 and other cases referred and relied by Counsels in their submissions.

On the facts before the court I accept the submissions of both the Public Prosecutor and your lawyer. You have in your possession 59 grams of cannabis substances with the intention to sell them to people at Lenakel but you did not sell any as you were arrested. It is a serious breach to the law. A custodial sentence is required to punish you and to also act as deterrence to the other persons minded to engage in similar activity.

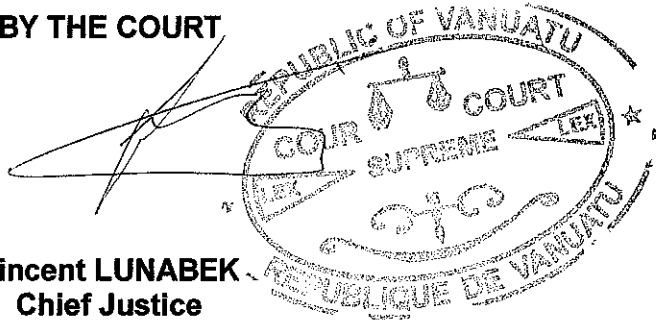


I sentence you to 1 year imprisonment. I reduce it to one third. Your end sentence is 8 months imprisonment which is suspended for a period of two years. In addition you are sentenced to 80 Hours of community work.

You have 14 days to appeal your sentence if you are not happy with it.

**DATED at Isangel, Tanna this 19<sup>th</sup> day of May 2015**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**