

IN THE SUPREME COURT
REPUBLIC OF VANUATU
(Criminal Jurisdiction)

Criminal Case No. 940 of 2017

PUBLIC PROSECUTOR

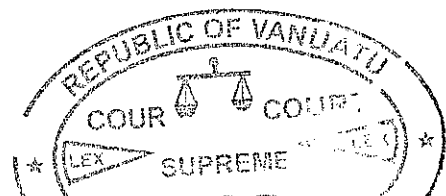
-v-

RORO IAUKO

*Before Justice David Chetwynd
Hearing 15th May 2017
Mr Toaliu for the Public Prosecutor
Defendant in person*

Sentence

1. The defendant Roro Iauko entered a plea of guilty on 2nd May to cultivating cannabis and appears today for sentence. Unfortunately his lawyer has not appeared today and when contacted by telephone says that he has only just received a copy of the Pre-sentence report and in any event is not in his office today. Despite that I proceeded to deal with sentence. There were submissions by the Prosecutor, a comprehensive pre-sentence report and I offered the defendant an opportunity to speak as well.
2. The facts of the case are straightforward and not in dispute. Sometime in 2016 the defendant planted 26 cannabis plants in his garden on land at Rentapau Dark Bush. A police officer "lodged a complaint" and the defendant was spoken to by another senior officer. He admitted cultivating 26 cannabis plants. They were uprooted and the defendant charged. He was co-operative with the police and explained he planted the cannabis plants as a way of trying to control pests, mainly rats, in his garden. When he appeared in the Supreme Court he immediately entered a plea of guilty and appears for sentence today.
3. There are sentencing guidelines available in this jurisdiction in relation to the cultivation of cannabis. The leading case is *Wetul v Public Prosecutor* [2013] VUCA 26; Criminal Appeal Case 04 of 2013 (26 July 2013). The Court in that case commented that the offence could be divided into 3 basic categories. Growing a small amount of cannabis plants for personal use; small scale cultivation for commercial use and large scale commercial cultivation. The facts of this case put it squarely into the first category. The Court of Appeal indicated that offending in this category, "*is almost always dealt with by a fine or other non-custodial measure*".
4. It is accepted that the defendant was *not* growing cannabis for use either personally or by other persons. He was growing the plants as a pest control



measure. Lest that suggestion be greeted with incredulity and dismissive comment it should be remembered that hemp was grown extensively in the UK, Europe and the USA until well into the 20th century. It was considered a valuable crop and mainly used to produce fibre for sacking and ropes but was also planted as a barrier crop to stop the encroachment of pests both plant and animal. However, in Vanuatu today it is not a defence to the charge faced by the defendant that the cannabis or hemp plants were for purely horticultural use. The defendant has recognised that and accepts his guilt. He admits he was well aware it was, and still is, against the law to grow cannabis plants for any purpose in Vanuatu.

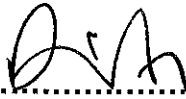
5. Because he was unrepresented today I asked the defendant if he wanted to say anything to the Court. He immediately apologised for his actions and indicated he would not commit any further offences. Mr lauko did not in any way try to shirk responsibility for his actions. His apology was genuine and I have no doubts about the remorse he expressed.

6. Given all the circumstances, the defendant's offending is at the lower end of the first scale set out in *Wetul*. The offending can be dealt with by a community sentence. The defendant will serve 60 hours of community service under the supervision of a Probation Officer.

6 Finally, I will remind the defendant of what I said in court, namely if he is unhappy with the sentence handed down then he has the right to appeal. The time for appeal will start to run when his counsel receives a copy of these written reasons.

Dated at Port Vila this 15th day of May 2017.

BY THE COURT


.....
D. CHETWYND
Judge

