

PUBLIC PROSECUTOR VS- JOSHUA DAVID

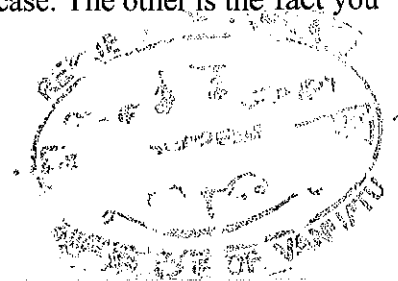
Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *Laura Lunabek for Public Prosecutor
Junior Garae for Defendant*

Date of Plea and Sentence: *28th February 2018*

SENTENCE

1. Joshua David, you are for sentence today for having pleaded guilty to one charge of prohibited substance and materials contrary to section 2 (62) of the Dangerous Drugs Act [Cap.12].
2. The offending took place in March 2013, some 5 years ago today. You were 18 years old then but now you are 27 years old. The weight of the substance was not specified in the charge or by the police. It is a gross oversight on their part. Today Mr Garae raised the issue of weight and proposed that the sentence be adjourned so the Police in Luganville could be contacted to try and find out. However he also indicated that the officer who did the test has passed away and it is unlikely the information needed would be made available. The information as to weight will now be dispensed with, both Counsel having agreed.
3. This morning you clearly admitted to having in your possession cannabis plants. The photograph in the exhibit and PI Bundle shows the bundle of cannabis leaves. The test shows and confirms they were cannabis plants.
4. Clearly you have broken the law and you must be punished. I have to assess the appropriate penalty based on the circumstances of the case. Clearly your case is different from the cases of PP vs Naio & others, PP.v. Tukuro, PP.v. Kamisak. One factor that is of concern is the absence of weight in your case. The other is the fact you



were in police custody on West Ambrym for 3 weeks, before being brought over to Lakatoro.

5. The Court clearly has a wide discretion as to sentencing options. For you, it is clear that in drugs cases the Court must impose a sentence that should mark the seriousness of the offence, and a sentence that should act as a deterrence to you and other like-minded persons.
6. The closest your case can compare with is the case of PP.v. Sope. It is clear to me your case warrants a custodial sentence and for the substance as shown in the photograph, your starting sentence shall be 12 months imprisonment with no uplift.
7. In mitigation I deduct 1/3 for your guilty plea. The balance is 8 months. For other mitigating factors such as remorse, good co-operation with the police, and the fact that you are first-time offender, I deduct a further 4 months leaving the balance at 4 months. Your end sentence is 4 months imprisonment but I order this sentence to be suspended for a period of 12 months on good behaviour, under section 57 of the Penal Code Act. This means that from today for 12 months, you must not commit this offence again or any other criminal offence for which you would be charged and convicted. If you do you will go to prison for 4 months.
8. I do not accept Counsel's submission that you should be sentenced to supervision. You are now a mature person and you and your parents and your church are capable of making sure you keep on the right path.
9. That is the sentence of the Court. You may appeal against this sentence if you do not agree with it and you should do so within 14 days.

DATED at Lakatoro this 28th day of February 2018

BY THE COURT


OLIVER.A.SAKSAK

Judge

