

BETWEEN: Public Prosecutor

AND: Henry Daniel
Defendant

Date: 29 June 2020
By: Justice G.A. Andrée Wiltens
Counsel: Mr T. Karae for Public Prosecutor
Ms L. Bakokoto for the Defendant

SENTENCE

A. Introduction

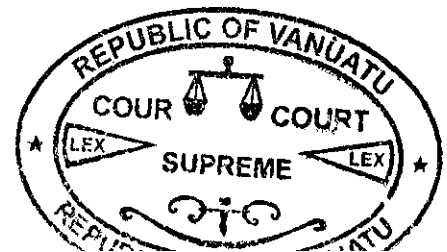
1. Mr Daniel pleaded guilty to possession of 140 grams of cannabis. The maximum penalty for such offending is 20 years imprisonment, and/or a fine of up to VT 100 million.

B. Facts

2. On 14 February 2020, Mr Daniel was seen at the MV Urata anchored at the former Government wharf, Port Vila. He was stopped and searched.
3. Inside a bag he was carrying the police located a package containing suspected cannabis. The contents were weighed and found to weigh 140 grams. The contents were also tested and confirmed to be cannabis.
4. Mr Daniel admitted the packages contained cannabis. He explained that it belonged to him and that it was a gift. He stated a friend had asked him to source a solar light, and in return had given Mr Daniel the package. Mr Daniel had ignored the fact the package was in his bag for several months prior to his apprehension.

C. Sentence Start Point

5. The aggravating factor to this offending is the quantity of cannabis and Mr Daniel's role in the offending as the owner of the drugs. There are no mitigating factors to this offending.
6. The appropriate sentence start point is 12 months imprisonment.



D. Mitigation

7. Mr Daniel is 41 years old, with no previous convictions. He is an engineer for MV Murata Shipping. He is married with 4 young children aged between 6 and 12 years old – he is their sole provider.
8. Mr Daniel co-operated with the police. He is said to be remorseful. Mr Daniel advised the PSR writer he consumed kava at times but no other illicit substances.
9. He has spent 24 hours in custody prior to being sentenced.
10. For his personal factors, I reduce the sentence start point by 4 months.

E. Plea

11. Mr Daniel pleaded guilty at the first available opportunity. However the prosecution case against him is that he was caught red-handed, and really had no option but to plead. Accordingly, I am prepared to reduce the sentence start point by 25% for his prompt guilty plea – by a further 2 months.

F. End Sentence

12. The end sentence that I impose is one of 6 months imprisonment, back-dated to 28 June 2020. The sentence is wholly suspended as his rehabilitation prospects are very good. There is little prospect of his re-offending. Mr Daniel has the support of his chief and the community. He is willing to take part in a custom reconciliation ceremony, and he pleaded guilty immediately.
13. The suspension is to run for 18 months. Mr. Daniel therefore needs to remain offence-free for 18 months in order to be able to remain in the community.
14. Mr. Daniel is also to serve 80 hours of community service.
15. Mr Daniel has 14 days to appeal this sentence if he disagrees with it.
16. The drugs are to be destroyed.

Dated at Port Vila this 29th day of June 2020
BY THE COURT

G.A. Andrée Wiltens
Justice G.A. Andrée Wiltens

