

**IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU**

*(Criminal Jurisdiction)*

**Criminal**

**Case No. 20/366 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**SIMON EDMOND PHILIP**

*Date:* 16 April 2020  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Mr P. Sarai  
Defendant – Mr E. Molbaleh

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**SENTENCE**

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A. Introduction

1. Mr Philip pleaded guilty to one charge of possession of dangerous drugs.
2. The maximum sentence for this offence is a fine not exceeding VT100 million or 20 years imprisonment, or both.
3. I convict Mr Philip on his plea and the summary of facts.

B. Facts

4. On 26 December 2019, the police arrested Mr Philip at the Cathedral area in Port Vila after a foot chase that began outside the Port Vila Market House. Mr Philip was carrying a back pack. The back pack contained 995.5 grams cannabis.

C. Aggravating/Mitigating Factors of the Offending

5. The weight of the cannabis – nearly one kilogram of cannabis, is an aggravating factor.
6. There are no mitigating factors relating to the offending.
7. Mr Philip told the police that two men had offered him a joint of cannabis in exchange for his beer. I do not accept that because firstly, if the back pack belonged to two complete



strangers, why did Mr Philip hold on to it and run with it away from the police? Secondly, Mr Philip ran with that back pack the whole way from the Market House to the Cathedral area, while being chased by a police officer. I therefore believe that the back pack was Mr Philip's and he was well aware of its valuable contents.

8. I set the sentence start point for Mr Philip's offending at 18 months imprisonment.

D. Personal Factors

9. Mr Philip is 34 years old. He lives with his fiancée and they have three children. He is self-employed – he and his fiancée run a kava bar. Mr Philip has no previous convictions. He has the strong support of his fiancée and family, and community. The defence submissions state that Mr Philip has performed a custom reconciliation ceremony with his chief and another custom ceremony to his family. He displayed as remorseful to the pre-sentence report writer.

10. For the personal factors, I reduce the sentence start point by 4 months imprisonment.

E. Deduction for Guilty Plea

11. The early guilty plea and the strength of the Prosecution case warrant a 25% deduction.

F. End Sentence

12. Taking all of those matters into account, the end sentence that must be imposed is one of 10 and a half months imprisonment.

G. Suspension

13. I have the ability, in certain circumstances, to suspend an imprisonment sentence in part or entirely. In view of the following factors:

- a. Mr Philip's lack of previous convictions;
- b. The circumstances where this offending appears to be a one-off event, therefore I consider it unlikely that it would be repeated in future; and
- c. Mr Philip's character in that he is self-employed as a kava bar entrepreneur, with a young family, and the strong support of his family and community;

I consider that it is not appropriate to make Mr Philip suffer an immediate imprisonment. I order the suspension of the execution of the imprisonment sentence on the condition that Mr Philip commits no further offence within the next 2 years.

14. I consider that keeping Mr Philip in the community is practicable and consistent with the safety of the community.

15. Although Mr Philip will not have to go into Correctional Services' custody today, I must warn him that if he commits an offence in the next 2 years and is convicted, that he will be

required to serve this sentence of 10 and a half months imprisonment in addition to any other penalty that may be imposed on him for the further offending.

16. In addition, I also impose a community work order of 30 hours community work.

17. I hope that Mr Philip makes full use of the opportunity given him by the Court today to reform so as to ensure that he is never brought before a Court again for criminal offending.

H. Other

18. The cannabis seized by the Police is to be destroyed.

19. Mr Philip has 14 days to appeal this sentence if he disagrees with it.

**DATED at Port Vila this 16<sup>th</sup> day of April 2020  
BY THE COURT**

*V.M. Trief*  
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V.M. Trief  
Judge

