

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal
Case No. 21/1334 SC/CRML

PUBLIC PROSECUTOR

v

KALO MELE

Date: 23 July 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr P. Toaliu
Defendant – Ms F.L. Kalsakau

SENTENCE

A. Introduction

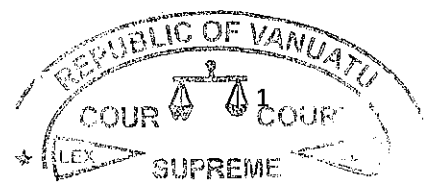
1. Mr Mele pleaded guilty to one charge each of possession and sale of dangerous drugs. He accepted the summary of facts and was accordingly convicted on his own pleas and the admitted facts.

B. Facts

1. Between January and 16 July 2020, Mr Mele sold marijuana for profit.
2. On 16 July 2020, following his girlfriend's complaint, the Police searched Mr Mele's house and seized a black cash box containing 2 grams marijuana. Since she began living with Mr Mele in 2018, he always kept one room in the house locked. He also had a black bag which he always locked. One day she saw that it contained marijuana. She grabbed the bag once and tried to report him to a police officer. He threatened to kill her if she reported him. She lived in fear from then on.
3. Mr Mele made full admissions to the Police.

C. Sentence Start Point and Personal Factors

4. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
5. The maximum sentence provided is 20 years imprisonment and/or a fine of up to VT100 million or both.



6. The offending is aggravated by the intermittent offending over at least 2 years, planning and subterfuge involved.
7. There are no mitigating aspects of the offending.
8. The factors set out above require a sentence start point of 20 months imprisonment.
9. Mr Mele pleaded guilty at the first opportunity. Given the strength of the Prosecution case, I deduct 25% for the plea.
10. Mr Mele is 32 years old. He is in *de facto* relationship and has two children aged 2 and 4 years old. He has no previous convictions. Mr Mele manages a kava bar business. He contributes positively to this community and actively engages in social activities organised by the community chief. I deduct 2 months for Mr Mele's personal factors. He is stated to have been unaware that it is illegal to sell marijuana; he was doing it to assist his relative on Epi. However, that does not assist to mitigate the sentence.

D. End Sentence

11. Taking all of those matters into account, the end sentences imposed concurrently are:
 - a. Sale of dangerous drugs (Count 1) – 13 months imprisonment; and
 - b. Possession of dangerous drugs (Count 2) – 13 months imprisonment.
12. The sentences are back-dated to run from 21 July 2021 as Mr Mele spent 2 days in custody from 16-18 July 2020.
13. The sentences are imposed to denounce the offending, to deter Mr Mele and others, to hold Mr Mele accountable for his criminal conduct and to protect the community.
14. In view of Mr Mele's lack of previous convictions, cooperation with the Police, his knowledge now that selling marijuana is prohibited and his prospects for rehabilitation, I suspend the sentences for 2 years. Mr Mele is warned that if he offends again within the next 2 years, he will need to serve the sentences in addition to any other penalty imposed on him for the further offending.
15. In addition, a sentence of 50 hours community work is imposed.
16. The drugs are to be destroyed.
17. Mr Mele has 14 days to appeal the sentence.

**DATED at Port Vila this 23rd day of July 2021
BY THE COURT**


Justice Viran Molisa Trief

