

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

**Criminal
Case No. 22/2178 SC/CRML**

BETWEEN: Public Prosecutor

AND: Danny Shem
Defendant

Coram: Justice Aru

Counsel: Ms. J. Tete for Public Prosecutor
Mrs. P. Malites for the Defendant

SENTENCE

1. The defendant Mr Shem pleaded guilty to one count of possession of a prohibited substance being cannabis and now appears for sentence.
2. The brief facts are that on 11 September 2020 the complainant a Police Officer whilst on patrol around Namburu area approached the defendant whom he suspected of possessing cannabis. He searched the defendant and found cannabis in his trousers. The cannabis was weighed and determined to be 1.5 grams.
3. The Court of Appeal said in Tukoro v Public Prosecutor [1999] VUCA 9 that:-

“Drug offences like any other offences against the criminal law are capable of being committed with varying degrees of culpability and seriousness and a trial court ... sentencing an offender must always bear in mind the particular circumstances of both the offending as well as the offender”.
4. Considering the above, I do not intend to adopt the sentencing exercise set out in Philips v Public Prosecutor [2020] VUCA 40. I note that the offending is at the lower end of the scale of cases involving possession of cannabis. The amount is 1.5 grams which the defendant admitted to the Police was for his own personal consumption.
5. The defendant is 24 years old and originates from the island of Makira. He is a first-time offender.
6. I sentence the defendant to 7 months imprisonment suspended for a period of 2 years. In addition, he will perform 50 hours of community work and attend the Niufala Road Program. I also order that the 1.5 grams recovered from the defendant is forfeited and must be destroyed within 7 days.
7. The defendant has 14 days to appeal if he disagrees with the decision.

DATED at Port Vila, this 11 day of October, 2022.

BY THE COURT OF VANUATU
COURT OF VANUATU
D. ARU
Judge.
SUPREME COURT
LEX
REPUBLIC OF VANUATU

