

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

Criminal case No.21/639 SC/CRML

PUBLIC PROSECUTOR

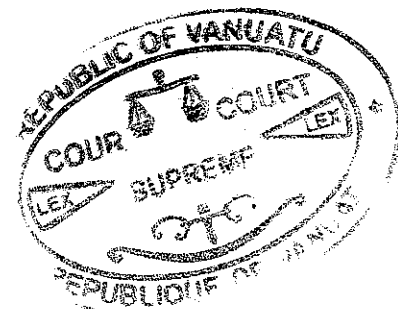
V

LYN SANDY
Defendant

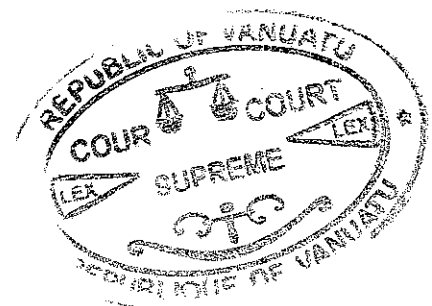
Before: Justice Oliver A. Saksak
In Attendance: Mr Ken Massing for Public Prosecutor
Ms Linda Bakokoto for the Defendant
Date of Plea: 25th October 2022
Date of Sentence: 25th October 2022

SENTENCE

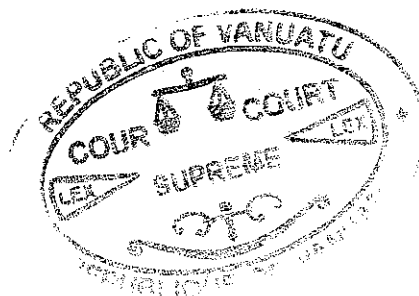
1. The defendant pleaded guilty to one count of unlawful possession of cannabis and not guilty to one count of attempted unlawful supply of cannabis.
2. The prosecutions entered nolle prosequi under section 29 of the Criminal Procedure Code Act and the defendant was acquitted of the charge in Count 2.
3. The defendant had breached her bail conditions by not appearing in Court on 9th April 2021 when a Warrant of Arrest was issued.
4. The Magistrates Court had on 28th January 2021 granted her bail on conditions that she not leave Efate and to report to the Police every Friday. She however left Efate and travelled to Melip, South Malekula to be with her 2 children without first seeking a variation of those bail conditions and/or informing the prosecutions and defence Counsel.



5. Further she failed to appear in this Court on 17th October 2022 pursuant to a Notice dated 20th September 2022. As a result a further Warrant of Arrest was issued. The Police at Lakatoro executed the warrant yesterday 24th October 2022 at Melip village. She was remanded in custody overnight.
6. At the plea hearing today Ms Bakokoto sought leave to enter pleas on the defendant's behalf and leave was granted.
7. She pleaded guilty to possessing cannabis on 13th January 2021. The defendant was paying a visit to her partner Kenneth Atuary at the High Risk Facility at the Correctional Centre in Port Vila at 2pm.
8. She was searched by a Correctional Officer as a matter of process and practice. The officer found a package under the defendant's bra. The package contained cannabis leaves weighing 3.63 grams.
9. On 14th January 2021 when questioned by Police she had admitted having cannabis tacked under her left bra for the purpose of passing them over to Kenneth Atuary.
10. Further she admitted that it was the second time she brought cannabis into the Correctional Centre, the first time being in December 2020.
11. At best what the defendant was doing was "smuggling" cannabis into jail for the purpose of supplying to the other detainees and putting the detainees at risk
12. I consider those to be the aggravating features of her offending despite Prosecution and defence Counsel submitted there were no aggravating features.
13. I consider those features make this case different from the cases of **PP v Garae** and **PP v Amon Jackson** referred to by Counsel in oral submissions.
14. There were no mitigating circumstances warranting the commission of this offence.




15. I therefore set the starting sentence of 2 years imprisonment for this defendant. This is to mark the seriousness of this type of offending, to mark public disapproval for such a practice, to deter the offender and like-minded persons, to protect detainees and other vulnerable persons and to punish the defendant adequately.
16. In mitigation I reduce the start sentence by 8 months representing a 1/3 reduction for admission to the police and guilty plea. Her sentence is reduced to 1 year and 4 months.
17. Further I take into account she is a mother of 2 children with a sick mother despite no medical report. She is a first-time offender. And she sought leave to apologise in person to the Court and to the Police. For all these together, her sentence is further reduced by 4 months.
18. That leaves her end sentence of 1 year or 12 months imprisonment. I consider that her sentence should be suspended for a period of 2 years on good behaviour under section 57 of the Penal Code Act.
19. That means that within 2 years from today, she must remain offence free. If she commits this offence again or any other criminal offences for which she would be charged and convicted, she will go to prison for 12 months or 1 year.
20. In addition I impose an order for community work for 90 hours as proposed by Prosecutions and defence Counsel. These must be performed within 12 months from the date of this sentence. A separate order will issue to that effect.
21. That is the sentence of the Court. The defendant has a right of appeal within 14 days if she does not agree with the sentence.



22. Pursuant to section 18 of the Dangerous Drugs Act, I hereby condemn the substance held by the Police to destruction.

DATED at Lakatoro this 25th day of October 2022

BY THE COURT


OLIVER.A.SAKSAK
Judge

