

BETWEEN: Public Prosecutor

AND: Joshua lata and Hiwa lata

Defendants

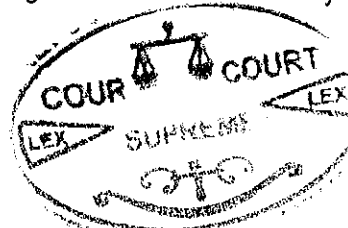
Dates of Plea: 25th April 2024
Date of Sentence: 30th April 2024

Before: Justice Oliver A Saksak

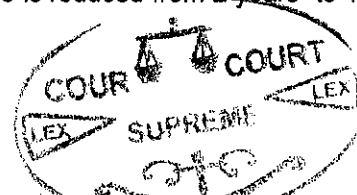
Counsel: Ms Florence Sewen for Public Prosecutor
Mr Reggie Melsul for the Defendants

SENTENCE

1. Both defendants Joshua lata and Hiwa lata pleaded guilty to two counts each of (a) possession of cannabis (counts 1, and 3 and (b) Cultivation of cannabis (Counts 3 and 4). Both defendants are for sentence today.
2. The defendants are twin brothers born on the same date being 1st January 1990.
3. A complaint was made to the Police by Kasiken Poita on 7th November 2022 about the defendants planting cannabis plants. The Police acting under a search warrant searched the home and garden of the defendants on 24th November 2022 during which they found and confiscated cannabis wrapped in aluminum foils and clothes with few branches of cannabis plant in Joshua lata's house. When weighed, the total weight was 10kg. The Police were led to the defendant's garden where they found 55 stems of cannabis which they cut down and brought in for weighing and testing. The total weight was 18kg.
4. In relation to Hiwa lata, the Police found 5kg of cannabis seeds in his house and 108 stems of cannabis plants in his garden weighing a total of 67 kg.
5. These were a large quantity of cannabis which by necessary inference could not be solely for private or personal use, although there was nothing in the facts to show they were supplied or sold to others.



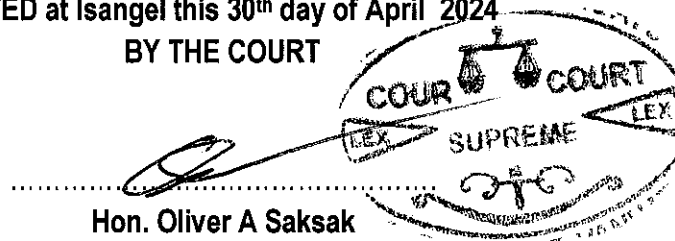
6. The Court will therefore convict and sentence the two defendants on the basis of their own guilty pleas and on the facts available before it.
7. First I consider the maximum penalty for possession and cultivation of cannabis which is 20 years imprisonment or a fine not exceeding VT 100 million or both. These high penalties show that these offences are very serious.
8. Next, I consider the mitigating circumstances and the aggravating features of the offences. There appears to be no mitigating circumstances. But the facts that seeds were found and wraps of cannabis in aluminum foil were seen by the Police with 55 stems planted by Joshua lata and 108 stems by Hiwa lata show deliberate acts and intentions on their part.
9. Next, I consider the principles of sentencing in the Court of Appeal case of Wetul v PP [2013] VUCA 26.
10. Applying the principles of that case to the defendants' case, I am of the view the defendants' offences fall within category 2. A custodial sentence is therefore warranted as the appropriate punishment for the two defendants, and I therefore convict and sentence them as follows-
 - a) Joshua lata- For possession of cannabis – Count 1- a start sentence of 12 months or 1 year imprisonment concurrent with count 2. For cultivation of cannabis- Count 2- 2 years imprisonment concurrent with Count 1. The total punishment shall be 2 years imprisonment.
 - b) Hiwa lata- For possession of cannabis – Count 1- a start sentence of 12 months imprisonment concurrent with count 2.
 - For Cultivation of cannabis- Count 2- Two years imprisonment concurrent with Count 1. The total sentence shall be 2 years imprisonment.
11. In mitigating sentence, I consider the defendants' personal histories and characters contained in their pre-sentence reports (Same Day) as submitted by Probation Service and defence counsel, including their guilty pleas.
12. For guilty pleas at the earliest opportunity, I consider that the full 1/3 entitlement be allowed to each of the defendants so that Joshua's sentence is reduced from 2 years to 1 year.4 months



- And Hiwa's sentence is also reduced to 1 year 4 months imprisonment. For other personal factors including the time spent in custody the Court will reduce their sentences by a further 6 months. The balance shall be 10 months imprisonment for both.
13. From their pre-sentence reports the defendants are twin brothers who never saw their father and mother who died away leaving them to grow up and face life challenges on their own with little or no parental support. They were both unschooled or uneducated. They are both very simple village boys trying their very best to live. They are both first time offenders with no past criminal record.
 14. Their circumstances warrant that they be given suspended sentences so that they be given a chance to rehabilitate and not be a expense to the State at this point in time. Only if they both should reoffend in the future, then they would lose this privilege.
 15. Accordingly I convict and sentence Joshua lata to an end sentence of 10 months imprisonment and Hiwa lata to end sentence of 10 months imprisonment also.
 16. I Order that their sentences be suspended for 2 years under section 57 of the Penal Code Act. This means they must not commit any other or further offences for a period of 2 years. If they do, they will both go to prison to serve out their sentences of 10 months imprisonment.
 17. To help them rehabilitate, I Order that both defendants be placed under supervision by Probation Officers for a period of 10 months.
 18. They both have a right of appeal against this sentence within 14 days if they so choose.

DATED at Isangel this 30th day of April 2024

BY THE COURT



**Hon. Oliver A Saksak
Judge**