

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

Criminal Case No. 24/2018

PUBLIC PROSECUTOR

v

ERICKSON SOLOMON MASSING

Defendant

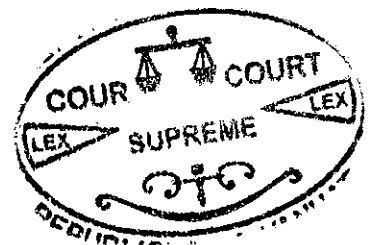
Coram: Justice Oliver A. Saksak

Counsel: Ms Laura Lunabek for Public Prosecutor
Ms Barbara Taleo for the Defendant

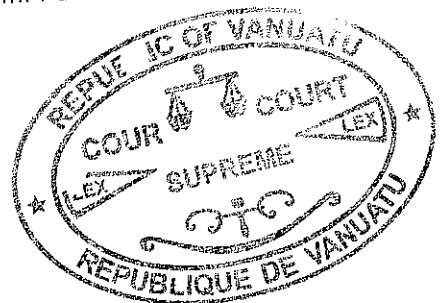
Dates of Plea: 15th July 2024
Date of Sentence: 19th July 2024

SENTENCE

1. Erickson Solomon Massing pleaded guilty to one count of domestic violence and to two counts of possession of cannabis. And he is for sentence today.
2. On 9th August 2023 the defendant committed acts amounting to domestic violence when he damaged his family's clothes, mattresses, pillows and bedsheets. This is the subject of the charge in Count 1.
3. On 3rd September 2024 the defendant was found at Pepsi Area with 0.038 grams of cannabis. On the same date in town he was found with 0.201 grams of cannabis on his person.
4. His pre-sentence report indicates the defendant is a habitual user of cannabis as a smoker and which may be having some adverse effects on his mental capacity.



5. There are no mitigating circumstances for his offendings. But there are aggravating features such as the repetitive nature of the drug offending, lack of duty of care for the family's properties and the risk of setting the family home on fire, and complete lack of remorse.
6. The offence of domestic violence attracts the maximum penalty of 5 years or a fine not exceeding VT 100,000. And unlawful possession of cannabis carries the maximum penalty of not exceeding VT 100 million in fine or imprisonment of not exceeding 20 years imprisonment or to both.
7. I have considered the submissions by Prosecutions and defence Counsel and the pre-sentence report filed by the Probation Service for which I am grateful. I note the guideline case of Wetul v PP [2013] VUCA 26 and PP v Raptick [2023] VUSC 226 and PP v Wilson [2024] VUSC 59. By comparison, these cases did not involve the charge of domestic violence, which is a distinguishing factor. It is also an aggravating feature of the case.
8. Considering these factors together this case warrants a custodial sentence. I adopt a start sentence of 12 months imprisonment for the charges of possession of cannabis in counts 2 and 3 as the lead offence on each count made concurrent.
9. For domestic violence I adopt a start sentence of 12 months for the charge in Count 1. This sentence shall be served consecutively with the concurrent sentence of 12 months for the charges in Counts 2 and 3. The total sentence shall therefore be 2 years imprisonment.
10. I therefore convict and sentence the defendant to a total of 2 years imprisonment for all three charges.
11. I now consider reduction of sentence due to his mitigating factors. First his guilty plea, the full 1/3 remission is granted. That means 8 months are deducted from 24 months leaving the balance to be 16 months imprisonment.
12. Next his clean past record and other factors personal to him. I deduct a further period of 4 months leaving the balance to be 12 months imprisonment.



13. Next I consider his pre- custodial period of 9 months and 3 weeks which I deduct from the balance of 12 months leaving his end sentence to be 2 months and 1 week.
14. I consider his remand in custody for 9 months and 3 weeks to be sufficient punishment for the defendant's offendings. I therefore order that the balance of sentence of 2 months and 1 week be suspended for a period of 1 year from the date of this sentence in which he must remain offence free. If he commits any further offence during this period, he will go to prison for 2 months and 1 week.
15. I Order that the defendant be released from custody forthwith.
16. That is the sentence of the Court. The defendant has a right to appeal within 14 days.

DATED at Luganville this 19th day of July 2024

BY THE COURT

Hon. OLIVER A SAKSAK

Judge

