

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

Criminal
Case No. 24/3302 SC/CRML

PUBLIC PROSECUTOR

v

KAMBOL MACREVETH

Date of Plea: 2 December 2024
Date of Sentence: 6 December 2024
Before: Justice M A MacKenzie
In Attendance: Public Prosecutor – Ms J Tete
Defendant – Ms B Taleo

SENTENCE

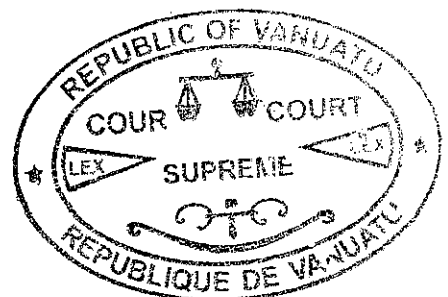
1. Mr Kambol Macreveth, you appear for sentence having pleaded guilty to one charge of possession of cannabis. The maximum penalty is 20 years imprisonment, or a fine not exceeding VT 100 million or both.

The Facts

2. On 5 August 2024 at about 6.30 pm police came across your vehicle parked opposite Carpenter's Motors. You were searched and cannabis was found. Testing confirmed the substance was cannabis, with a net weight of 2.072 g.
3. You were cautioned and admitted the allegations to police.

Sentencing purposes/principles

4. The sentence I impose must hold you accountable and must denounce and deter your conduct given that you were in possession of cannabis. The sentence should ensure you take responsibility for your actions and help you to rehabilitate. It must also be generally consistent.



Approach to sentence

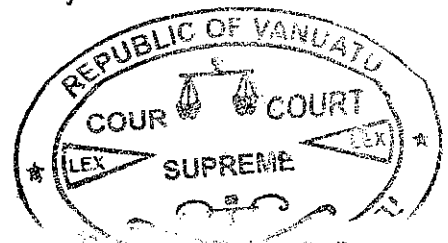
5. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

Starting point

6. The first step is to set a starting point taking into account the aggravating and mitigating features of the offending itself and the maximum penalty for the offence.
7. The offending involved a very small quantity of cannabis.
8. There are no mitigating features of the offending itself.
9. There is a guideline case for cannabis cultivation, *Wetul v Public Prosecutor* [2013] VUCA 26. It also applies to possession of cannabis. Here, the offending involves a small amount of cannabis for personal use. There is no evidence of commerciality at all. Therefore, it falls within Category 1 of *Wetul*. So, the usual sentencing outcome would be a fine or other community-based sentence. A short term of imprisonment could be warranted in some circumstances.
10. I adopt a starting point of 6 months imprisonment, taking into account *Public Prosecutor v Shem* [2022] VUSC 174, *Public Prosecutor v Robert* [2024] VUSC 61, and *Public Prosecutor v Alexis* [2024] VUSC. These cases all involve very small quantities of cannabis. *Shem* involved 1.5 g of cannabis. The sentence imposed was 7 months imprisonment suspended for 2 years, and 50 hours community work. *Robert* involved 1.216 g of cannabis. The court said that because Mr Robert had spent 4 months in custody prior to sentence, that was a sufficient penalty. No further sentence was imposed in the circumstances. *Alexis* involved 2.7 g of cannabis. No additional penalty was imposed due to the time the defendant spent in custody.

Guilty plea and personal factors

11. While you pleaded guilty at an early opportunity, I agree that the discount should be limited to 25%. That is because the case against you is overwhelming. This is 1.5 months.
12. You are aged 25 years, and you are from Santo. You were co-operative with police. You are employed as a block mason. These factors do not require a sentence reduction.
13. You have previous similar convictions. On 22 July 2024, you were sentenced to 10 months imprisonment for cultivation of cannabis and possession of cannabis: *Public Prosecutor v Macreveth* [2024] VUSC 228. The offending involved 7 cannabis plants and some cannabis branches, which had a weight of .20g. The sentence was suspended for 2 years. You were also sentenced to 60 hours community work. Of concern is that the present offending occurred about 2 weeks after you were sentenced.



14. The sentence needs to be increased to reflect that you offended subject to sentence and to reflect your recent similar convictions. The uplift to reflect the recent convictions is needed for deterrent purposes. The sentence is increased by 1 month. The uplift is modest because it needs to be proportionate to the starting point.

End Sentence

15. The provisional end sentence is 5 ½ months imprisonment. However, you were remanded in custody on 5 August 2024, and have remained in custody since then. You have spent 4 months in custody which equates to an effective sentence of 8 months imprisonment. Usually, the Court would order your immediate release from custody on the basis that you have already served an otherwise appropriate sentence.
16. However, pursuant to s 57(1)(c) of the Penal Code, because of this conviction, you will now serve the 10 months imprisonment imposed on 22 July 2024, unless the Court is of the opinion that that it would be unjust to do so, in view of all the circumstances that have arisen since the suspended sentence was imposed, including the circumstances of any further offending. While the quantity of cannabis is modest, the nature and circumstances of the offending are of concern. About 2 weeks after you were sentenced for similar offending, you reoffended. You did accept responsibility, but offending so soon after the suspended sentence was imposed indicates that you did not take the sentencing process seriously, or at least it had little deterrent effect.
17. In all the circumstances, it is not unjust for you to serve the sentence of 10 months imprisonment imposed on 22 July 2024, for the reasons set out above, notably the reoffending so soon after the suspended sentence was imposed. So, in terms of sentencing for the current offending, the Court cannot order your immediate release, as you will now serve the 10 month term of imprisonment. The best way of recognising that you have already served a more than appropriate sentence for the present offending is to impose a concurrent sentence, so that you do not spend any more time in custody. For the present offending, you are sentenced to 5 ½ months imprisonment, to be served concurrently with the 10 months imprisonment you will now serve for the earlier offending. That will reflect the fact that you have already served the sentence for the present offending. The sentence start date is back dated to commence on 5 August 2024, the date you were remanded in custody.
18. The cannabis material is to be destroyed.
19. You have 14 days to appeal.

DATED at Port Vila this 6th day of December 2024
BY THE COURT

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Justice M A MacKenzie

