

**PUBLIC PROSECUTOR**

**V**

**DERICK KAILICK**

**Coram:** *Hon. Chief Justice V. Lunabek*

**Counsel:** *Mr J Aru for the State  
Ms B Taleo for the Defendant*

**Date of Pleas:** *22 April 2024*

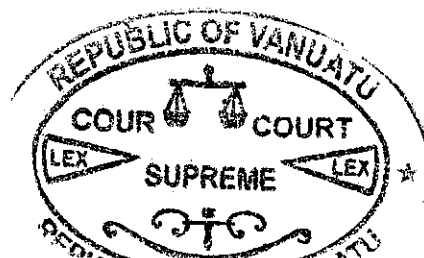
**Date of Sentence:** *23 May 2024*

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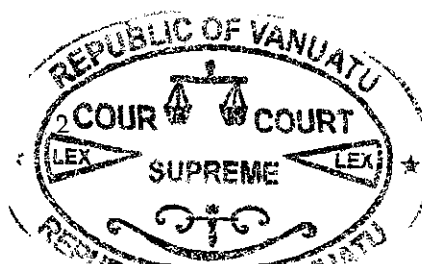
**SENTENCE**

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1. Mr. Derick Kailick ("Mr. Kailick"), you appear today for sentence having being pleaded guilty to one charge of cultivation of cannabis substances, contrary to section 4(1) of the Dangerous Drugs Act [CAP12].
2. A formal complaint was made against you Mr. Kailick for the offence of Cultivation of cannabis plants which is prohibited by the laws of the Republic of Vanuatu.
3. The offending took place sometimes in November 2023 at Lapo Village, the South West part of the island of Malekula. The police received information that you were involved in cultivating cannabis plants. Upon that information the police did an investigation. During investigation it was revealed that you cultivated 5 plants of cannabis.
4. The cannabis plants seized by the police were then sealed and kept in their custody for presumptive test. The net weight was 142.5 grams. The presumptive test result shows that the cannabis plants seized by the police were turned positive of cannabis.
5. You were arrested, cautioned and interviewed by the police where you admitted the allegations made against you.



6. The offence of cultivation of cannabis plants carries a maximum sentence of a fine not exceeding 100 million vatu or a term of imprisonment not exceeding 20 years or to both such fine and imprisonment.
7. In this case, there is no mitigating factor to the offending, but the following aggravating factors exist: -
  - a) Mr. Kailick, you had a knowledge intention of the nature of the plant in your possession as opposed to being neckless in possessing and cultivating it.
  - b) Here, you cultivated 5 cannabis plants weighting 142.5 gram.
8. This present case lies under category 1 of the Wetul guidelines set out in Wetul v. Public Prosecutor [2013] VUCA 26.
9. The sentence start point is 18 months imprisonment based on Public Prosecutor v lata [2021] VUSC 138.
10. In mitigation, you are 28 years old. You are a first-time offender with no criminal history. You are married and had 3 children. Your wife is employed at Chuan store in Port Vila. All 3 children reside in Malekula with their father, Mr. Kailick. You are unemployed. You earn a living through farming by planting and selling kava. You have a good relationship with your community and family. You cooperated well with the police and made admission in your cautioned interview.
11. I reduce your sentence by 3 months for your mitigating factors.
12. I reduce further your sentence by 33% for your early guilty pleas which have saved the state resources in bringing this matter to a finality.
13. Your sentence remaining balance is 10 months.
14. You were arrested and remanded in custody on 18 November 2023 at Malekula, transferred to Santo Correctional Centre and remanded on 22 November 2023 and released on bail on 19 February 2024. You have spent over 13 weeks. You have actually spent 2 months 3 weeks and 6 days in pre-custody period. This period must be deducted from your sentence.
15. Your remaining sentence is 7 months and 3 days imprisonment.
16. I consider the nature and circumstances of your offending and your character as an offender. I decide to suspend your term of imprisonment of 7 months and 3 days for a period of 2 years. In addition, I sentence you to 60 hours of community work and 6 months supervision.



17. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days start on the date of this sentence.

DATED at Luganville, Santo, this 23<sup>rd</sup> day of May 2024

BY THE COURT

Hon. Chief Justice Vincent LUNABEK

