

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

Criminal
Case No. 25/449 SC/CRML

PUBLIC PROSECUTOR

v

DAVID SAM

Date of Plea: 14th March 2025
Before: Justice Josaia Naigulevu
Counsels: Acting Public Prosecutor – Mr. Christopher Shem
Public Solicitor – Mr. Harrison Rantes

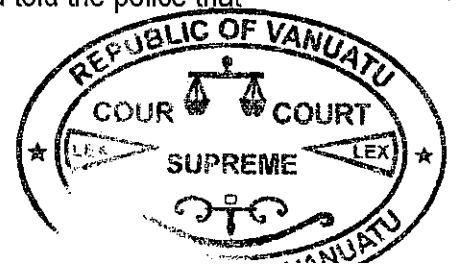
SENTENCE

Introduction

1. Mr. David Sam, you appear for sentence having entered a guilty plea and accepted the summary of facts presented by the prosecution relating a count of possession of cannabis contrary to section 2(6) of the Dangerous Drugs Act [CAP 12]
2. You were duly convicted on that plea.

Facts

3. On the 15th December 2024, you were confronted and searched by the police at the market in Lenakel town. They found in your possession two rolled pieces of aluminium foil. The content was examined and found to contain leaf-like substance.
4. The substance was subsequently tested and confirmed to be cannabis. It had a net weight of 1.0gram.
5. There is nothing in the evidence to suggest whether the substance was intended for commercial purposes or for your own consumption. However, you told the police that you had purchase the foiled rolls from another person.



Sentencing Guidelines

6. The sentence that is imposed is guided by certain principles. These include the proposition that offenders must be held accountable and take responsibility for their actions; that their actions must be denounced; and that similar future conduct must be deterred. Equally important also is the principle that offenders must be given ample opportunity to rehabilitate.
7. The approach that I take in the present case follows the guidance that was given by the Vanuatu Court of Appeal in the case *Philip v Public Prosecutor* [2020] VUCA 40.

Starting Point

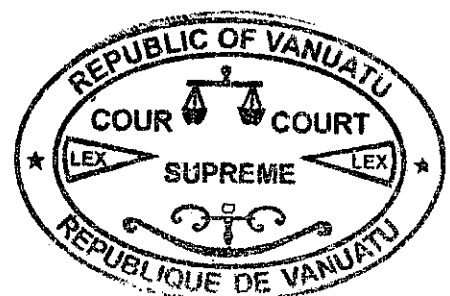
8. To determine the appropriate starting point, I take into account the statutory maximum sentence, together with the aggravating and mitigating factors of the offending.
9. The maximum penalty for the offence of possession of cannabis is a term 20 years imprisonment and/or fine of VT100 million.
10. Your counsel and the prosecuting counsel have both drawn my attention to the case *Public Prosecutor v Garae* [2022] VUSC 33. I agree that the case is broadly comparable with the present case. This case falls at the lower end of the scale of such cases.
11. I adopt a global starting point of 12 months.

Guilty Plea

12. You pleaded guilty at the earliest opportunity. As a result, you are entitled to a one third discount, equivalent to 4 months. That period is deducted from the starting point of 12 months.
13. It is noted also that when first confronted by the police under caution you admitted the offending.
14. Your early guilty plea and admission are an indication of remorse and contrition: *Public Prosecutor v Gideon* [2002] VUCA 7.

Aggravating Factors

15. There were no aggravating factors.



Mitigating and Personal Factors

16. In the absence of a pre-sentence report, the only information available is one that can be gleaned from your counsels written submission. In that submission you are described as eighteen years old, not married and someone who farms for subsistence.
17. Your counsel draws to the Court's attention how you are a first-time offender. The absence of a previous conviction is taken into account.
18. These factors reduce your sentence by a further 5 months.

End Sentence

19. Mr. Sam your end sentence is 3 months. In arriving at that end sentence, I have taken into account all the matters referred to earlier.
20. Further, I have also taken into account the circumstances, the nature of the offending and your character and have decided to suspend your sentence pursuant to section 57 of the Penal Code for the period of 12 months.
21. You are however to complete a total of 60 hours of supervised community service over the next 12 months.
22. You have 14 days to appeal this sentence.
23. The substance seized during the course of the police investigation is to be destroyed.

DATED at Port Vila this 21th day of March 2025
BY THE COURT

