

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

Criminal
Case No. 25/1413 SC/CRML

PUBLIC PROSECUTOR
v
SIMON KALWATMAN

Date of Plea: 3 June 2025
Before: Justice M A MacKenzie
In Attendance: Public Prosecutor – Mr C Shem
Defendant – Mr KS Amos (Mr F Tasso)

SENTENCE

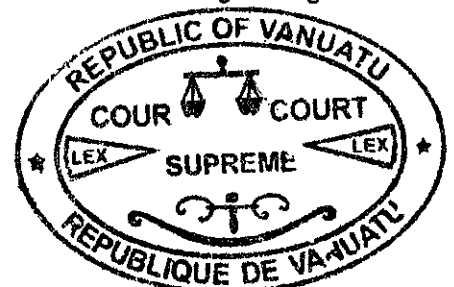
1. Mr Simon Kalwatman, you appear for sentence having pleaded guilty to one charge of possession of cannabis. The maximum penalty is 20 years imprisonment, or a fine not exceeding VT 100 million or both.

The Facts

2. You were found in possession of cannabis on 26 December 2021 at Pango village. The substance was found in the pocket of your trousers and was packed in a packet of candy. Testing confirmed the substance was cannabis, with a net weight of 7.25 g.
3. Under caution, you admitted the offending.

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. Cannabis is an illegal drug



which causes social harm. The sentence should ensure you take responsibility for your actions, and help you to rehabilitate. It must also be generally consistent.

Approach to sentence

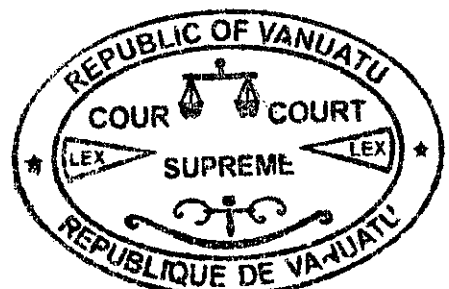
5. Sentencing involves 2 separate steps; Jimmy Philip v Public Prosecutor [2020] VUCA 40, which applied Moses v R [2020] NZCA 296.

Starting point

6. The first step is to set a starting point taking into account the aggravating and mitigating factors of the offending, together with the maximum penalty for the offence.
7. The one aggravating factor is the quantity of cannabis, being 7.52 g.
8. There are no mitigating features of the offending itself.
9. Both counsel have filed helpful written submissions. As both counsel note, there is a guideline case for cannabis cultivation, Wetul v Public Prosecutor [2013] VUCA 26. It also applies to possession of cannabis. The offending here involves a modest 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, or a short custodial sentence.
10. A useful comparator case is Public Prosecutor v Wilson [2024] VUSC 59. In that case, the defendant was in possession of 8.447 g of cannabis. The offending fell within Category 1 of *Wetul*, and a starting point of 12 months imprisonment was considered appropriate. I adopt a starting point of 12 months imprisonment, consistent with *Wilson*.

Guilty plea and personal factors

11. While you pleaded guilty at an early opportunity, I agree that the sentence reduction should be limited to 25%. That is because the case against you is overwhelming. That equates to a reduction of approximately 3 months from the starting point.
12. You are aged 44 years and live in Pango. You are a first offender and were co-operative with police. You are a single father of two daughters. You also care for your mother, who is considered to have special needs. You work as a handyman at Pango Centre School. You have now stopped using cannabis. You are remorseful and say you will not re-offend. There was also a delay in the prosecution.



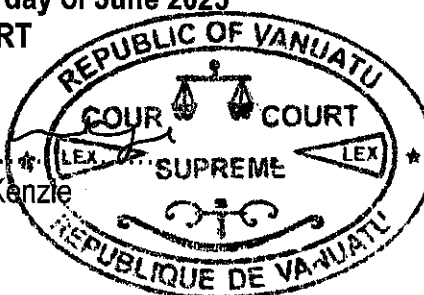
13. For your prior good character, cooperation, family responsibilities, remorse, and the delay in prosecution, I reduce the sentence by 2 months, which equates to approximately 15 %.

End Sentence

14. The end sentence is 7 months imprisonment.
15. However, a full-time custodial sentence is not necessary to meet the relevant sentencing needs. The question is whether a suspended sentence should be imposed or a sentence of community work, as submitted by the prosecutor? I must impose a sentence which is the least restrictive outcome appropriate in the circumstances. The sentence must also be generally consistent.
16. Having regard to the modest amount of cannabis in the present case, as well as the two comparator cases referred to by Mr Shem, I agree that a sentence of community work will deter and denounce the offending. In one of the cases referred to by Mr Shem, Public Prosecutor v Garae [2022] VUSC 33, the defendant was sentenced to 60 hours community work for offending which involved a very small amount of cannabis.
17. Given the greater quantity of cannabis here, compared with *Garae*, I impose a sentence of 80 hours community work, which is to be completed within a period of 12 months.
18. The cannabis material is to be destroyed.
19. You have 14 days to appeal.

DATED at Port Vila this 12th day of June 2025
BY THE COURT

.....
Justice M A Mackenzie

The seal of the Supreme Court of the Republic of Vanuatu is circular. It features a central emblem with a scale of justice and a sword. The words "REPUBLIC OF VANUATU" are written in an arc at the top, and "REPUBLIQUE DE VANUATU" at the bottom. Inside the circle, the words "COUR SUPREME" are prominently displayed, with "LEX" on either side. The words "COUR" and "COURT" are also visible on the left and right sides of the central emblem.