

**IN THE SUPREME COURT OF THE  
REPUBLIC OF VANUATU – Luganville,  
Santo**  
*(Criminal Jurisdiction)*

**Criminal Case No. 25/2345 SC/CRML**

**BETWEEN: PUBLIC PROSECUTOR**  
Santo

**The State**

**AND: Philip Sam**  
Santo

**Defendant**

*Date of Plea: 16 September 2025*  
*Date of Sentence: 19 September 2025*  
*Before: Justice B. Kanas Joshua*  
*Counsels: Ms Josephine Tete, for the State*  
*Ms Barbara Taleo, for the defendant*

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**SENTENCE**

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**Introduction**

1. Mr Philip Sam, you appear today for sentence of the charge(s) of cultivation of cannabis plant, which you pleaded guilty to, on 16 September 2025.
2. The maximum penalty for possession of cannabis is a term of imprisonment not exceeding 20 years, and and/or a fine not exceeding VT 100 million.

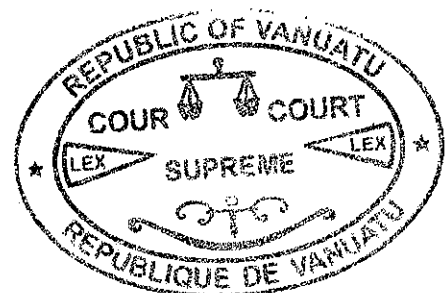
**Facts**

3. On 17 January 2025 the chief of Petanie (Bethany) village, North West Santo, reported to the police that you were cultivating cannabis plants. You then uprooted these plants from your garden and brought them to the community area. The police arrested you and brought you to Luganville.
4. Tests confirmed that the total net weight of cannabis was 0.960g.

**Sentencing purposes/principles**

5. You must be held responsible for your actions so others who also behave this way can see that this is against the law which has serious consequences. This will help to stop their actions, as it causes social harm.
6. This sentence should help you to rehabilitate, and must be generally consistent.

**Approach to sentence**



7. The sentence approach is in two steps, as in *Jimmy Philip v. Public Prosecutor*<sup>1</sup>, which applied *Moses v. R*<sup>2</sup>.

### Step 1: Starting point

8. The first step is to set a starting point. Reference is made to the aggravating and mitigating factors of the offending and the maximum penalty of the offence.
9. The aggravating factor is the quantity of cannabis. The net weight is 0.960 grams. Defence counsel concedes with this.
10. There are no mitigating factors of the offending. Defence counsel concedes with this.
11. The guideline case for cannabis cultivation is *Wetul v. PP*<sup>3</sup>. It categorizes cannabis cultivation into 3 broad categories. The offending in the current case involves a small amount of cannabis which the defendant admits is for his personal consumption. This falls within category 1 and would attract a fine or community based sentence.
12. The prosecutor submits a starting point of 20-24 months' imprisonment. Ms Taleo submits that the appropriate starting point is 12-18 months' imprisonment. In *PP v. Jimmy*<sup>4</sup>, the court adopted a starting point of 30 months imprisonment where the defendants were charged with cultivation of cannabis, weighing 6.8kg. In *PP v. Iata*<sup>5</sup>, the court gave a starting point of 18 months for one defendant who cultivated 11kg of cannabis, and a starting point of 24 months for the second defendant, who cultivated 21kg of cannabis. In the current case, the net weight of the cannabis plants was 40g shy of 1kg. The weight is much less than those in the cases cited. The sentence must be less than 18 months.
13. Defence counsel submits that in the current case the offence falls within the first category in *Wetul*. This consists of "the growing of a small number of cannabis plants for personal use by the offender without any sale to another party occurring or being intended. Offending in this category is almost invariably dealt with by a fine or other non-custodial measure." In the current case, the defendant admitted under caution that the plants were for his personal use. There were no hints of commercialization. In recent cases in the Supreme court, a starting point of 3 years' imprisonment was set for cultivation of cannabis. For instance, in *PP v. Leo*<sup>6</sup>, 41 plants with a net weight of 5.90kg were cultivated. In *PP v. Lulu*<sup>7</sup>, there were 67 plants cultivated with a net weight of 5.30kg, and in *PP v. Medias*<sup>8</sup>, there were 198 plants cultivated with a net weight of 8.50kg. The three cases are more serious than the present case, given the small weight.
14. Given the small quantity in the current case, and considering the cases above, I adopt a starting point of 12 months' imprisonment.

### Step 2: Guilty plea and personal factors

15. You pleaded guilty and admitted to the allegations against you in your caution statement. The prosecutor agrees to a deduction of 20-25%. Defence counsel submits a 33% deduction. You are entitled to a 1/3 reduction, which is 4 months less, resulting in 8 months' imprisonment.

<sup>1</sup> [2020] VUCA 40.

<sup>2</sup> [2020] NZCA 296.

<sup>3</sup> [2013] VUCA 26.

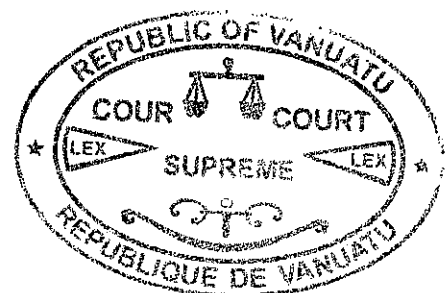
<sup>4</sup> [2020] VUSC 252.

<sup>5</sup> [2021] VUSC 138.

<sup>6</sup> [2024] VUSC 91.

<sup>7</sup> [2024] VUSC 103.

<sup>8</sup> [2024] VUSC 98.



16. The following mitigating factors, are also contained in the Same Day Report:
- You are a young father of 24 years old;
  - You are unmarried and support your 5-year-old daughter;
  - You are a first time offender;
  - You are remorseful and realizes the wrong committed;
  - You are employed as a lumberjack;
  - You cooperated with the police;
  - You were in pre-trial custody from 16 May 2025 to 21 July 2025.
17. A further reduction of 3 months is given these mitigating factors. An appropriate deduction must also be made for the time spent in pre-trial custody. This is 9 weeks 3 days, which equates to an effective sentence of 19 weeks (4 months 3 weeks).

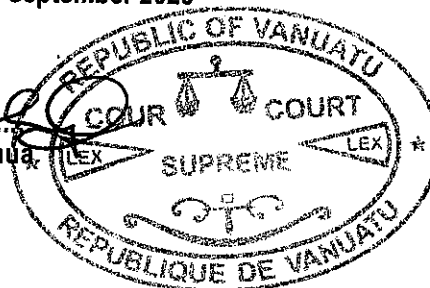
**End sentence**

18. Mr Philip Sam, you are sentenced to sentenced to 3 months 1 week imprisonment.
19. I have the discretion to suspend your sentence under Section 57 of the Penal Code Act (CAP 135) In *Naio v. PP*<sup>9</sup>, the Court of Appeal emphasized the need for stern measures to be taken to discourage drug offences. The court stated that the punishment of the offence must reflect the seriousness of the offence. In *Tukoro v. PP*<sup>10</sup>, the court emphasized that sentencing of offenders must always take into consideration the circumstances of the offending and the offender. Cultivation of cannabis is the beginning of any cannabis-related offence. However, in this case the quantity is a small amount and is used for personal consumption. It falls within category 1 of *Wetul*, which a fine or non-custodial sentence is appropriate. After considering the above, I exercise this discretion and suspend your sentence for 1 year. In that time, you must not commit any offence. If you do, you will be arrested immediately and held in custody to serve this sentence.
20. To assist with rehabilitation, I order 60 hours of community work and you must attend any appropriate rehabilitation program provided by the Correctional Services, to help you be a better person for your daughter.
21. The cannabis material must be destroyed.
22. You have 14 days to appeal.

Dated at Port Vila on this 19<sup>th</sup> day of September 2025

BY THE COURT

  
Justice B. Kanas Joshua



<sup>9</sup> [2020] VUCA 1.

<sup>10</sup> [1999] VUSC 9.