

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

Criminal
Case No. 25/1633 SC/CRML

BETWEEN: Public Prosecutor

AND: Benton Wina
Defendant

Coram: Justice Dudley Aru
Counsel: Mr. M. Kalwatong for the Public Prosecutor
Ms. L. Bakokoto for the Defendants

SENTENCE

Introduction

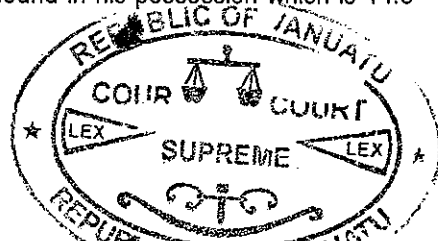
1. The defendant Benton Wina pleaded guilty to one count of unlawful possession of cannabis contrary to s 2(62) and s 17 of the Dangerous Drugs Act [CAP 12]. He is convicted on his guilty plea and the admitted facts.
2. The maximum penalty for unlawful possession of cannabis is a fine not exceeding VT100 million or a term of imprisonment not exceeding 20 years or both.

The facts

3. On 23 October 2024 the Police Drugs Unit received information from the owner of the ship Urata Riki that the employees of the ship are involved in cannabis activity. They responded to the call and when the ship arrived at the wharf the Police carried out a search on the defendant and his personal effects and found him in possession of cannabis substances weighing 14.5 grams. The cannabis substance was found inside a black basket belonging to the defendant. The basket contained a clear white plastic bag containing small round balls of dried plant material covered with aluminium foil.
4. On 24 October 2024 Police Officer Winshaul received the exhibits belonging to the defendant for forensic examination. The forensic report concluded that the exhibits belonging to the defendant tested positive as cannabis. The defendant was cautioned on 24 October 2024 and admitted possessing the cannabis.

Sentence start point

5. The maximum sentence available for unlawful possession of cannabis is a fine not exceeding VT 100 million or a term of imprisonment not exceeding 20 years or both. The only aggravating factor of the offending is the net weight of the cannabis found in his possession which is 14.5 grams. There are no mitigating factors of the offending.



6. Both the prosecution and defendant referred to **Wetul v Public Prosecutor** [2013] VUCA 26 where the Court of Appeal has set out sentencing guidelines for offences involving cannabis. The Prosecution submitted that the starting point of sentence should be 12 months imprisonment. The defence on the other hand submitted that the appropriate sentence should be a fine of between VT20,000 to VT 25, 000.
7. I adopt a sentence start point of 12 months imprisonment.

Guilty plea and Personal factors

8. The defendant pleaded guilty at the earliest opportunity as a sign of remorse and also saving the Court's time had a trial proceeded. For the guilty plea the sentence start point is discounted by 30%.
9. No pre-sentence report was filed as directed. Counsel submitted that the defendant is a first-time offender. He is the youngest of the employees of MV Urata Riki who were arrested. He earned his income to support his family by working on the vessel as a member of the ship's crew. He has now lost his job as a result of this case.
10. Taking into account these factors the sentence start point is further reduced by 2 months.

End sentence

11. The defendant is sentenced to an end sentence of 6 months imprisonment. This is suspended for a period of 12 months. The sentence will be re-activated to be served if the defendant reoffends during the period of the suspension. In addition, the defendant will perform 40 hours community work. I also order supervision for a period of 6 months for the defendant to undertake rehabilitation relating to his offending.
12. I also order that the cannabis material be destroyed immediately.
13. The defendant has 14 days to appeal if he is not satisfied with the decision.

DATED at Port Vila this 3rd day of October, 2025

BY THE COURT

Dudley Aru
Judge

