



5. The maximum penalty for this offence, following the enforcement of the Penalties Miscellaneous Amendment Act of 2009, is that of 5,000 penalty units or 6 months imprisonment, or both.
6. This demonstrates the collective views shared by our legislators about the level of seriousness associated with any offending caught under the section in breach.

### Acquittal/Conviction

7. Having recorded a guilty plea on your part, and having perused the agreed facts, I find that the circumstances presented warrants imposing a conviction against you. I therefore enter conviction against your guilty plea.

### Matters of aggravation

8. In my view, the offending in itself is deemed serious. Further to this is the fact that the offending occurred at night time.

### Matters of mitigation

9. In my view, the matters of mitigation include your early guilty plea, which has saved both time and resources. I also consider the fact that you are a first-time offender, and a young adult who has a very high prospect for change and rehabilitation. I am also told that you have cooperated with the police during the course of investigations.

### Comparative sentencing

10. Counsels have referred me to a number of cases for purposes of minimizing objectional disparity. On the other hand, it can only be fair and just, when sentences are imposed according to the facts and circumstances presented in a particular case.
11. I therefore refer to the following cases, and the remarks uttered by the court:

**Joel Likilia & Allen Kokolobu v R [1988 – 89] SILR 148<sup>1</sup>:**

*Sentencing is not a process that follows exact mathematical rules. Circumstances and people vary and it is undesirable to consider such comparisons as more than a very imprecise guide.*

**In Sau v R [1982] SILR 65<sup>2</sup>:**

*'I must add one further observation on the sentencing process and on appeals against sentence. There is an increasing practice of reference being made to specific previous cases in court. This was done by the learned magistrate in this case and the dissimilarities give counsel a ready-made ground for argument which they understandably take. Sentencing is not an exact mathematical process; if it were it could be done by a computer. The human element both in the person before the court and the sentencer remain a vital part of the process. Previous sentences demonstrate principles or parameters of sentence; but they should not be used as binding precedents to reach a sentence in a particular case. All the judiciary have access to each other's sentences and we must rely upon the good sense and experience of the judiciary to reach sentences which reflect not only their own views but also the views of the community*

### Sentencing remarks

1. The section in breach, covers offending's with different levels of seriousness. This means, someone can be charged under section 8 (b) of the Dangerous Drugs Act with circumstances more severe

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<sup>1</sup> [1988 – 89] SILR 148

<sup>2</sup> [1982] SILR 65

than another person charged under the same section. This explains the need to assess cases, on a case by case merit.

2. The circumstances leading to this offence, as put by Counsel Hatingongo, was the box of matches was used when you and your peers were drinking. It so happened that you got hold of the it and claimed to not have known that the half joint was in it. I find this hard to believe since you were part of the group using the box of matches to light your cigarettes during the material time. there are very high chances that you have seen the joint inside the box of matches when you got hold of it.
3. The use of prohibited plants such as marijuana is on the rise. It is one of the contributing causes to mental health issues faced by many young people in this country.
4. Our legislators are well aware of the risks associated with such engagements, hence the enactment and enforcement of the Dangerous Drugs Act.
5. Inferences can be drawn from circumstances such as this, that when portions of illegal drugs such as that described in your charge are found under someone's possession, it is solely for the purpose of being consumed.
6. This afternoon, I wish to remind you about the legal and health consequences that one will face if he or she continues to associate with this illegal substance. There are living examples of young people roaming the streets of Honiara, as well as our rural areas. There is and will never be any benefit when one lives a life style involving the substance in question.
7. To ensure the need for both specific and general deterrence, rehabilitation, retribution and prevention, I believe a sentence of fine is appropriate in this regard.
8. I was asked to consider the fact that you are unemployed and that you are very young. In my view, your personal circumstance is all the more reason to refrain from engaging in this non-productive and waste of time life style.
9. The maximum penalty for this offence, as earlier highlighted is 5,000 penalty units. Imposing a custodial sentence, in my view, is best reserved for cases in which the manner of offending is highly serious.
10. The level of seriousness involved in this regard is below the mid-range of the yardstick to be considered.
11. Hence, in considering the mitigating and aggravating factors involved, I hereby sentence you as follows:

**Orders:**

- (i) **You are sentenced to a fine of \$300.00 which is payable by the 7<sup>th</sup> of February 2025.**
- (ii) **In default 20 days in imprisonment.**
- (iii) **Right of appeal.**

Dated this 21<sup>st</sup> day of January 2025.

  
THE COURT  
Emily Z Vagibule Pakoa (Mrs)  
Principal Magistrate

