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**PUBLIC PROSECUTOR - v - ALPHONSE KAWAI**

**Coram:** Chief Justice Vincent Lunabek

**Counsel:** Ms Kayleen Tavoia for the prosecution  
Mr Tom Loughman for the Defendant

**SENTENCE WITHOUT CONVICTION AND DISCHARGE**

Alphonse Kawai, this is your sentence. On 7 April 2009, you pleaded guilty to one count of possession of cannabis, contrary to Section 2(13) of the Dangerous Drugs Act [CAP.12]. On 1<sup>st</sup> January 2008, you boarded a Air Vanuatu aircraft flight from Tanna to Vila. The plane arrived at the Bauerfield airport at about 17.40 hours. A security officer suspected you had in your possession prohibited substances and materials. He searched your bag and found cannabis seeds inside your bag. You took those seeds with you from Tanna to Port-Vila. The test revealed the seeds are cannabis seeds. They weighed 15-50 grammes.

Possession of cannabis is prohibited by law. Section 2(13) of the Dangerous Drugs Act is the prohibiting section. It provides:

***"Prohibited substances and materials***

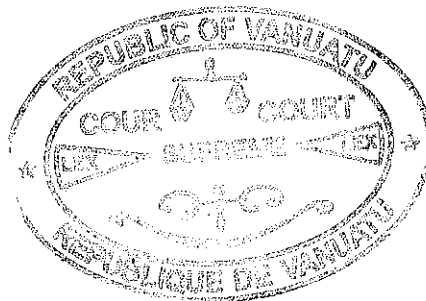
2. *The ... possession in Vanuatu of the following substances and material except as provided in section 3 is prohibited-*

...

(13) *Cannabis."*

Section 17 of the Dangerous Drugs Act [CAP.12] provides penalties for contravention of the law. It says:

**"Penalties for contravention of Regulation**



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17. Every contravention of this Regulation shall constitute an offence punishable by a fine not exceeding 100 millions Vatu or to a term of imprisonment not exceeding 20 years or to both such fine and imprisonment.”

When I sentence you I take into consideration that you are a first time offender. The amount of cannabis in your possession is minimal. You are a student at INTV college in Port-Vila. You cooperated with the police.

In your explanation of the offending, you said you were on holiday on Tanna and on your return back to Vila, you packed your clothes in a basket belonging to your friend without knowing that the basket contained the cannabis. So you got shocked of it when the cannabis were found on your arrival at the airport.

You express through counsel, your remorse and apologies as you never intended to commit such an offence. Your version of fact show that you never intended to commit the offence. I do not understand what kind of advice but it is now clear to me that you should never enter a guilty plea on this offence on 7 April 2009.

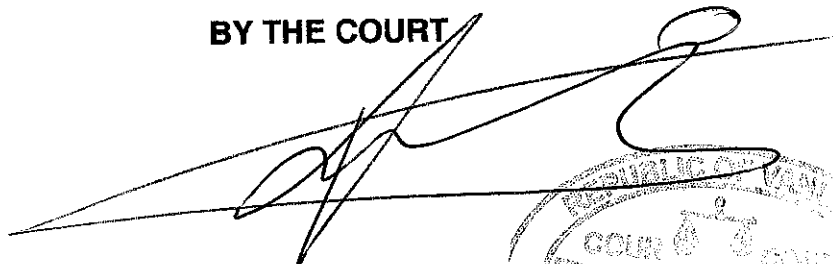
There is no intention from the prosecution to challenge your version of the facts. I accept your version of facts.

I enter no conviction against you. I discharge you from such an offence.

You have 14 days to appeal.

**DATED at Port-Vila this 24<sup>th</sup> day of April 2009**

**BY THE COURT**



**Vincent LUNABEK**  
**Chief Justice**

