

PUBLIC PROSECUTOR - v - MORRIS KULKUL

Coram: Chief Justice Vincent Lunabek

Counsel: Ms Kayleen Tavoia, the Public Prosecutor
Ms Bertha Pakoasongi for the Defendant

SENTENCE

Morris Kukul is charged and pleaded guilty for possession of cannabis leaves, contrary to Section 2(13) of the Dangerous Drugs Act [CAP.12].

The brief facts indicate the following:

On the 16th February 2009 at about 10.45hrs, Police Inspector Paul Thomsen lodged a complaint against suspect Morris Kukul for the above offence.

Inspector Paul Thomsen said the suspect Morris Kukul was in possession of illegal drugs (marijuana) that he brought with him from Epi on MV Freedom, and the ship is now at the Government Wharf, and he is now ready to take his basket and leave.

On the 16th February 2009 at about 11.00hrs, police arrived at the scene. And about 11.37hrs police arrested the Defendant and took him to the Police Station, searched him and detained him in cell 6 at about 11.45hrs.

On the 17th February 2009 at about 8.59hrs he was interviewed by Police Inspector Paul Thomsen, Cpl Uriel Leo and PC Steve George. They did not complete the interview because they had to go to Court.



On the 23rd February 2009 at about 8.30hrs Inspector Paul Thomsen took the suspect Morris Kukul to the Police Station to complete the record of interview. And at about 9.30hrs he cautioned the suspect. He finished the record of interview of the suspect. He made him obtained a statement. In the statement, the suspect (MK) admitted that what he said in his statement is true.

The Defendant had in his possession cannabis leaves in a 25kg bag rice of yellow colour.

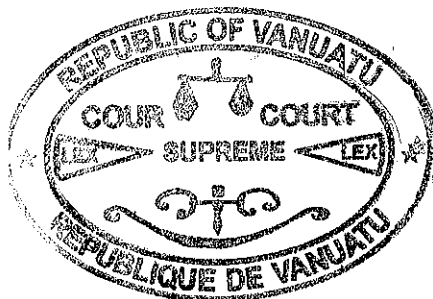
In his statement, the police crime scene Inspector, John R. Edmandley stated the following:

He took photograph of a 25kg rice bag filled with calicos and various parcels of dried leaves. There were 7 parcels and he weighed each parcel which show the following corresponding weights.

Parcels Nos.	Weights
1.	140.07g
2.	138.38g
3.	122.72g
4.	132.17g
5.	235.49g
6.	173.84g
7.	168.21g
	<hr/> 1,110.21g

This officer tested the drugs taken from the parcels, through the simplified testing procedure for the major drugs for abuse prepared by scientist and used and followed by law enforcement officers in the world and the pacific region. They tested positive i.e. they were of cannabis essence which are prohibited by law.

A pre-sentence report was provided.



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Defendant Morris Kulkul is 62 years of age. He is from Port Kalia Village, Epi. He did not have any education background. He has skills in gardening, cutting canoes, carving, fishing and building houses. He has 7 children with his wife. The report shows that the Defendant has good behaviour at home and care for his grand sons.

The Defendant says he is an Elder of Presbyterian Church at his village. He has good relationship with the members of his church. He says he has no major health problem apart from a minor pain on his shoulder when he performed heavy duties. He says he did not smoke but he drinks two or three shells of kava a night.

Upon his arrest, he was scared and realized that he broke the law. He feels guilty because he tarnished the name of his family and community. He says he will not commit the same offence again in future.

Defendant Morris Kulkul had in his possession more than 1 kg (1,110.88Kg) on 16 February 2009. He brought them to Vila with the intention to sale them to some youth in the town.

The weight of the cannabis constitutes an aggravation despite the seriousness of the offence itself.

Defendant Morris Kulkul is sentenced to 5 months imprisonment with immediate effect.

14 days to appeal.

DATED at Port-Vila this 4th day of May 2009

BY THE COURT

**Vincent LUNABEK
Chief Justice**

