

**PUBLIC PROSECUTOR**

**V**

**ANDREW TOM**

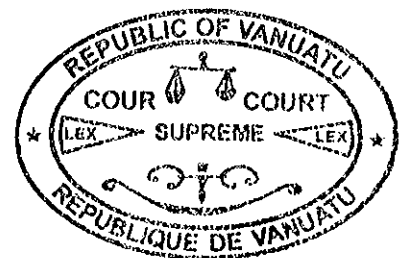
*Hearing:* 7 June 2011  
*Before:* Justice Robert Spear  
*Appearances:* Simcha Blessing for State  
Jacob Kausiama for Accused

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**SENTENCE**

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1. The accused was arraigned and pleaded guilty to one count of possession of cannabis. In short, he was found in possession of 6.97 grams of cannabis. He is convicted of that offence.
2. This is a case where I can proceed to sentence today without a pre-sentence report. The summary of facts makes it totally clear that the accused is an habitual user of cannabis and so a large part of the sentence must be directed towards his rehabilitation.
3. Mr Blessing asked me to take into account, as an aggravating feature to this offending, that introductory part of the summary of facts that points to the accused threatening a police officer with a bush knife. The summary of facts indicates that it was this aggressive and threatening behaviour that activated the police constable's interest in the accused and enabled him to form a suspicion that the accused was under the influence of cannabis.
4. It is significant, in my view, that the accused was committed to this Court on charges of possession of cannabis and abusive and threatening language. There was ample scope then for the State to address that violent aspect of the events of 19 July 2009 with an appropriate charge relating to the threatening behaviour and the use of the bush knife. The correct charge or charges for this offending would probably have to be viewed as more serious than possession of cannabis. However, the State has chosen not to charge the accused for this conduct for reasons that I struggle to understand. I do not



consider that they should now be permitted, by way of a back door approach, to bring up the threatening behaviour and the use of the bush knife as part and parcel of the charge of simple possession of cannabis. If anything, one would have thought that the possession of cannabis was more of a secondary importance to the threatening behaviour and that should have been the focus of the charging consideration.

5. Accordingly, I proceed to sentence the accused solely on the summary in relation to possession of cannabis and without regard to what is said to be his threatening behaviour. It is offending at a level where a community based sentence can be imposed.
6. Andrew Tom you are convicted and sentenced to carry out 150 hours community work. You are also placed under supervision for 12 months with the special conditions:-
  - 1) That you undertake the Niufala Rod programme.
  - 2) That you undertake such assessment, counselling and treatment for alcohol and drug abuse as directed.
7. You have 14 days to appeal this sentence if you are not satisfied with it.
8. You are to return to the Court office at 3.00 pm today to be served with the orders for community work and supervision.

**BY THE COURT**

