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

CRIMINAL CASE No.12 OF 2011

PUBLIC PROSECUTOR -v- HARRY AYONG

Coram: Chief Justice Vincent Lunabek

Counsel: Mr Felix Ngwango for the Public Prosecutor
Mr Tom Loughman for the Defendant

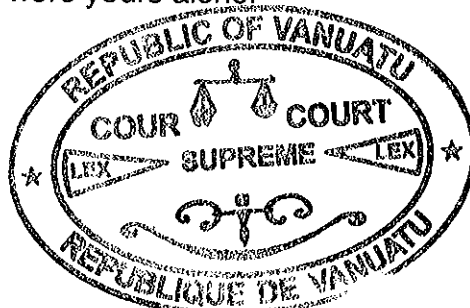
SENTENCE

Harry Ayong, you appear before the Court today for your sentence. On 2 March 2011, you pleaded guilty to one count of possession of cannabis, contrary to section 2(62) of the Dangerous Drugs Act [CAP.12]. It is particularized that on 9 February 2011, at the time of your arrest by the Police officers, you had in your possession 26 rolls of cannabis substance in a packet of cigarettes, 1 plastic bag containing 12 rolls of cannabis substance and 1 plastic bag of cannabis dried leaves.

The brief facts of the case are set out by the prosecution. You agree with those facts. They are set out below:

On the 09th of February 2011 at 17.50hrs at the Parliament Park during the Kymani Marley concert, you were arrested by police officers after being found in possession of cannabis. This is a result of the searches made by police officers at the entrance of the concert premises on individuals before entering. You were then taken to the police and detained in cell #6.

On the 10th February 2011 around 14.14hrs the Complainant Smith Wuwut (Police officer) released you from cell #6. Police Officer Terry Lapinpal cautioned you and your rights were being read to him. You understood your rights and then signed. You were also given a suspect statement in which you admitted to the offence stating that the cannabis found by the police officers on you were yours alone.



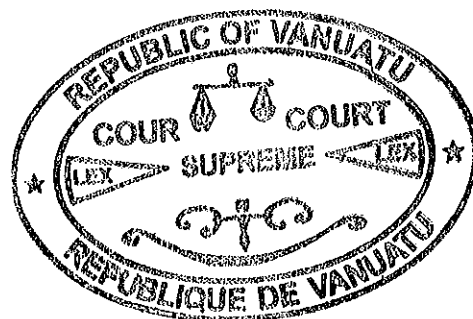
A test has been carried out on the 12th of February 2011 at 11.03hrs on the substance material confiscated from you. The result of the test showed that the substance material confiscated from you was of cannabis substance. The substance in the cigarette packet weighed 7.67g, and that in the plastic bag weighed 28.62g and the dried leaves weighing at 7.84g which is totaling 54.15 grammes of cannabis substance.

You understood your rights and then signed statement admitting to the offence committed. The statement stated that you bought the substance on the 5th of February 2011 from a boy from Epi living at Fresh Wota 2 at George Tari's nakamal. You rolled half of the substance and put it in an empty cigarette packet. The other rolls in the plastic bag belong to someone from Tanna by the name of Noah at Fresh Wota 4. Noah had so much that he had to give some to you to go with to the concert at the parliament park.

Possession of cannabis is a serious offence. When I consider your sentencing, I have heard and consider the prosecution submissions, your lawyer submissions on your behalf and I have the benefit of reading the pre-sentence report filed by the Probation Office. I am considering the particular circumstances of your case when I sentence you.

In your case, the seriousness of your offending is aggravated by the following:
You possess cannabis to sell to others during a public live music concert and this was not only for your own behalf but you did it also for another person.

In mitigation, you are a young man of 24 years of age and a first time offender. You are in a steady defacto relationship and you are the father of a young boy. You pleaded guilty to the offence. The police recovered from you cannabis substance weighed in total 54.13 grammes. It is a good size amount with some commercial value. You are employed with a regular income.



A handwritten signature in black ink, consisting of several loops and a long tail, located at the bottom right of the page.

On balance between the aggravating and mitigating factors, I sentence you to 12 months imprisonment. I suspend your imprisonment sentence for a period of 2 years to give you a chance for your rehabilitation.

You are notified that during the 2 years period of suspension of your imprisonment sentence, you must be of good behaviour and keep peace in the community and keep you out of trouble. If you ignore it and you re-offend, you will be charged and if convicted, your sentence of 12 months imprisonment shall be reactivated. This means that you shall serve 12 months imprisonment plus any other sentence imposed on you for the new offence.

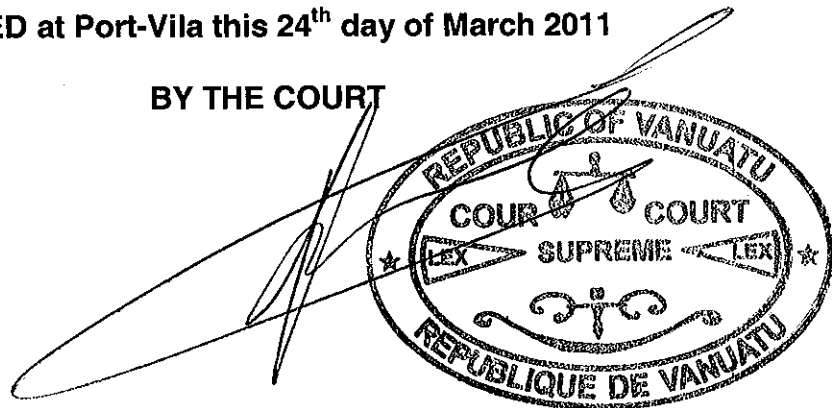
In addition, I sentence you to 80 hours community work.

It is separately ordered that all items of cannabis substance confiscated from you must be condemned by the police/prosecution by 14 days.

You have 14 days to appeal this sentence if you are unsatisfied with your sentence.

DATED at Port-Vila this 24th day of March 2011

BY THE COURT



**Vincent LUNABEK
Chief Justice**