

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

Criminal Case No. 122 of 2010

**PUBLIC PROSECUTOR**  
-V-  
**WILLIAM REXTON**

Criminal Case No. 124 of 2010

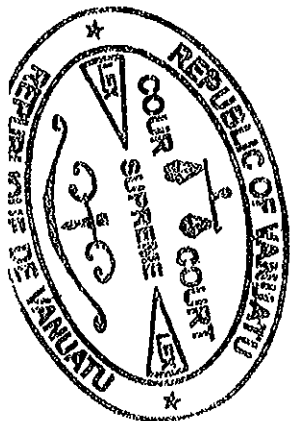
**PUBLIC PROSECUTOR**  
-V-  
**PATRICK NASSE**

**Coram:** Justice D. V. Fatlaki  
**Counsel:** Mr. T. Karae for the State  
Mr. F. Tasso for the Defendants  
**Date of Sentence:** 11 May 2011

**SENTENCE**

1. Although the Defendants were charged and arraigned separately the undisputed facts indicate that the charges arose out of the one incident and it is therefore convenient that the Defendants be dealt with together in the one sentencing exercise.
2. The brief facts of the case are that on 20 May 2010 the Defendants were both found fast asleep on a grass verge near Mok Store opposite Ambrosia Restaurant at Nambatri area in Port Vila. They had bought and consumed a quantity of alcohol and had fallen asleep. Police were informed and they arrived and escorted the Defendants to the station where they were searched. A roll of cannabis (**0,88gm**) was recovered from William Rexton and some dried cannabis leaves and seeds (**1,75gms**) were recovered from Patrick Nasse.

William Rexton was charged and pleaded guilty to an offence of being **Idle and Disorderly** contrary to Section 148 (f) of the Penal Code and a second count of **Unlawful Possession of Cannabis** contrary to Section 2(62) of the Dangerous Drugs Act [CAP. 12]. Patrick Nasse was charged and pleaded guilty to a single count of **Possession of Dried Cannabis Leaves** contrary to Section 2(62) of the Dangerous Drugs Act [CAP. 12].

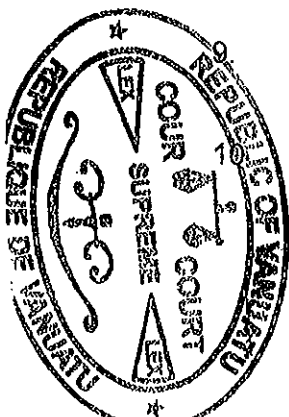


4. I have received helpful pre-sentence reports of the Defendants from the Probation Service which identifies the following common elements:
- Both are single aged 17 and 18 years of age and both reside at Ohlen, Fresh Wind area in Port Vila;
  - Both come from stable families and both left school at an early stage year 11 and after class 6 (Patrick Nasse);
  - Both are employed by Telecom Vanuatu Limited;
  - Both denied being users of cannabis or kava;
  - Both defendants are first time offenders;
  - Both expressed remorse for what they did and promise not to re-offend;
  - Both admitted the offences when interviewed by the police at the station.
5. In respect of both Defendants their local chief and pastor have generously offered to counsel and guide them should the Court be minded to pass a community-based sentence as recommended in their pre-sentence reports.
6. I have also received helpful written submissions from the prosecution and defence counsels which I have taken into account.
7. I am satisfied from a consideration of the circumstances of the offence and the personal characteristics of the Defendants that their offending is correctly categorized by prosecuting counsel as "... *not very serious and can be regarded as falling within the lower end of the scale...*"
8. This Court is aware however of the growing incidence of offences involving the possession and use of cannabis mainly involving young single men, and therefore, there is a need for the Court to pass sentences that will deter not only these defendants but other young men who might be minded to become involved with cannabis.

The Court is also mindful that both Defendants are young first time offenders and both pleaded guilty at the earliest opportunity.

The Defendants are accordingly sentence as follows:

- **William Rexton** for the offence of **Idle and Disorderly Conduct**: a sentence of 2 months imprisonment and for




**Unlawful Possession of Cannabis** a sentence of 3 months imprisonment. Both sentences to be served concurrently, making a total sentence of 3 months imprisonment for both offences;

- **Patrick Nasse** is sentenced for the offence of **Possession of Cannabis leaves** to a term of 4 months imprisonment.

11. In respect of both Defendants however, having regard to the very minor nature of the offending and the personal characteristics of each Defendant I am persuaded that the sentences should be suspended for a period of 18 months. This means that neither defendant will go to prison today but each is warned that if he commits another offence in the next 18 months and is convicted, then it is very likely that he will be sent to prison to immediately serve this prison sentence as well as, any additional sentence he may receive for his re-offending.
12. Whether you will go to prison in the next 18 months is entirely in your hands and I urge you both to change your ways and take up more useful and lawful social activities and pastimes. Play soccer and take part in church-sponsored youth activities. Stay away from alcohol if you can't handle it and don't let me see either of you in court again.
13. To help you stay on the right side of the law, I also sentence each of you to undergo **supervision** for a period of **9 months** with a special condition that you each attend and complete the **Niufala Rod** program facilitated by the Probation Service.
14. You have 14 days in which to appeal this sentence if your do not agree with it and, for completeness, I order that the cannabis seized from the Defendants be forfeited and destroyed after 14 days from today.

**DATED at Port Vila, this 11<sup>th</sup> day of May, 2011.**

**BY THE COURT**

  
**D. V. FATIAKI**  
Judge.

