

**PUBLIC PROSECUTOR – VS – STEWARD MOLI**

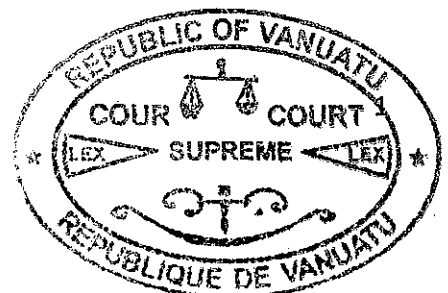
**Coram:** *Mr. Justice Oliver A. Saksak*

**Counsel:** *Ms. Kayleen Tavoia, Public Prosecutor for the State*  
*Ms. Jane Tari for the Defendant*

**Date:** *9<sup>th</sup> October 2013*

**SENTENCE**

1. Steward Moli you pleaded guilty to one Count of Unlawful Possession of Cannabis on 6<sup>th</sup> September 2013. Unlawful Possession of Cannabis is an offence under Section 2 (62) of the Dangerous Drugs Act Cap. 12.
2. The maximum penalty Parliament has imposed for this offence is imprisonment not exceeding 20 years and a fine not exceeding VT100 Million. These high penalties indicate the seriousness of this offending.
3. The facts are simple. On 3<sup>rd</sup> January 2013 you had in your possession one roll of cannabis which you passed on to one Randy Mera. This person took the roll and passed it on to his brother Richie. Richie then went to report the matter to the Police. The substance was tested by Police and proved positive to be cannabis. The net weight was 0.243 grams.
4. You have conceded those facts.
5. In considering and assessing appropriate penalty I have seen your pre-sentence report. I have also seen written submissions as to sentence from both the Public Prosecutor and defence counsel. I heard Counsel in relation to these

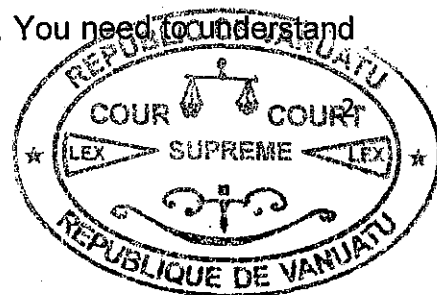


submissions this morning. Both Counsel placed reliance on those written submissions.

6. The Public Prosecutor submits that a community-based sentence would be appropriate. Defence Counsel submits that a community work sentence would serve as a deterrence both for you and for others. Defence Counsel places reliance on the Court of Appeal case of Wetul v. Public Prosecutor [2013] VUCA 26. This is a consolidated appeal of Criminal Appeal Case No. 4 of 2013; Colombus Wetul v. Public Prosecutor and Criminal Appeal Case No. 5 of 2013; Jason Boe v. Public Prosecutor. Based on these, Ms. Tari submits that your offending falls within category 1.
7. The Court of Appeal said this concerning category 1 –

*“Category 1 consists of the growing of a small number of cannabis plants for personal use by the offender without any sale to another party occurring or being intended. Offending in this category is almost invariably dealt with by a fine or other non-custodial measure. Where there have been supplies to others on a non-commercial basis, the monetary penalty will be greater and in more serious cases or for persistent offending, a term of community work and supervision or even a short custody term may be merited. (it is to be noted in this connection that there is no separate offence in relation to a section 4 offence of cultivation for supplying or possession for supply as opposed to importation, sale supply or possession (S.2)).”* (My underlining for emphasis).

8. I agree and accept Ms. Tari's submission that your offending falls within category 1. The Court will therefore punish you appropriately by applying the case of Wetul and Boe.
9. Your pre-sentence report indicates you are a persistent user of cannabis. It also indicates you started consuming the substance in 1997. You need to understand



that you ought to exercise restraint and make some serious decision about your life and what the future holds for you. You need to understand your punishment today as a warning both to you and to others to help you rehabilitate and to avoid committing the offence again and coming back to Court.

10. Under those circumstances you are therefore convicted and sentenced to –

- (a) Do 10 hours of Community Service; and
- (b) Supervision for a period of 6 months.

These sentences are imposed pursuant to Section 58 F and 58 N of the Penal Code Act [Cap. 135].

11. You have a right of appeal against sentence within 14 days from today if you are not happy with it.

**DATED at Luganville this 9<sup>th</sup> day of October 2013.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge**

