

PUBLIC PROSECUTOR

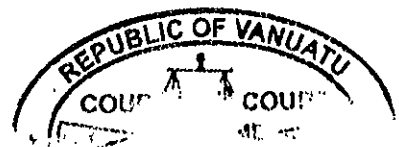
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CLEMO CLEMENT NAPAU

Hearing: 12 February, 2013
Before: Justice Robert Spear
Appearances: Ken Massing for the Prosecution
Jacob Kausiama for the Defence

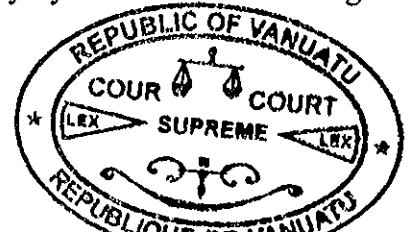
SENTENCE

1. Clemo Clement Napau, you are for sentence today on 1 count of possession of cannabis and another count of cultivating cannabis.
2. You take no issue with the summary of facts. On 21 May 2012, a team of police officers went to your home at Erakor Half Road. They carried out a search and found 15 small rolls of marijuana wrapped up in foil commonly known in the trade as *tinnies* or *foils*. The police also found 3 packets of cannabis contained in glad wrap and a nursery with 35 small cannabis plants. The total weight of the cannabis located in your possession was 317.31 grams.
3. Mr Kausiama asks that the Court deal with you on the basis that this was cannabis that you had in your possession for your personal consumption. That is indeed what you have also told the probation officer. I do not accept that. There is no reason why



someone who is growing or in possession of cannabis for their personal consumption would make up *tinnies* or separate packets wrapped up in glad wrap. That is inconsistent with cannabis that has been bought because of the number of small packages. It is consistent with cannabis that has been packaged for sale at a street level basis. The amount of cannabis you were found with is also well above what might be considered as a stash for personal consumption.

4. It is clear that you were packaging the cannabis to sell it and, as such, you need to be dealt with on the basis that there is a distinct commercial aspect to your possession and cultivation of the cannabis. Be that as it may, it is not a great deal of cannabis and I have no information as to how developed those 35 plants were except that they were seedlings.
5. The law of Vanuatu is clear that cannabis is an illegal substance. If you want to involve yourself in the cannabis sub-culture, you need to understand that it comes with risks. For those who are found either in possession of or cultivating cannabis for commercial purposes, a deterrent sentence is almost always required to discourage people from trying to make easy money out of trading in cannabis.
6. There is a need in my view here for a prison sentence. That is necessary to mark the seriousness of the offending and to send the appropriate deterrent message out to those people who might contemplate possessing and/or cultivating cannabis for commercial purposes. They must know that it is not worth the risk.
7. I adopt a starting point here of 12 months' imprisonment principally because there is not a great deal of cannabis but without question you had it for the purposes of selling.
8. You have previous convictions. You are certainly no stranger to this Court. You have a number of convictions for burglary, theft, assault and you have been to prison for offending particularly in relation to dishonesty offences. I note that your last conviction was in 2005. However, some uplift is required to reflect your previous convictions but as they are not drug related I will lift it only by 3 months. That brings me to an offending end point of 15 months' imprisonment.



9. You pleaded guilty at the first available opportunity and you are entitled to full credit of one third against the sentence that would otherwise have been passed on you.
10. There are no other matters that I have seen from the pre-sentence report of from your counsel's submissions that would encourage me to reduce that any further.
11. So that the appropriate end sentence here is one of 10 months' imprisonment.
12. The question then is whether I suspend the sentence of imprisonment. You have had suspended imprisonment sentences in the past and, in particular, in 2003. As far as I can tell, you wasted the opportunity then to turn your life towards lawful pursuits. So I am not prepared to suspend it because of your previous convictions and in particular that you have had a suspended sentence before.
13. The sentence of the Court is for 10 months' imprisonment.
14. You have 14 days to appeal this sentence if you do not accept it.

BY THE COURT

