

**PUBLIC PROSECUTOR – VS – REUBEN BONG
JIMMY WARREN
TROY VINIA**

Coram: *Mr. Justice Oliver Saksak*

Counsel: *Mr. P. Wirrick for Public Prosecutor
Miss J. Tari for the Defendants*

Date of Submissions and Sentence: *12th April 2013*

SENTENCE

1. Reuben Bong you pleaded guilty to one charge of Attempted Supply of Cannabis contrary to section 28 of the Penal Code Act Cap. 135 in conjunction with section 2(62) of the Dangerous Drugs Act Cap. 12 on 4th April 2013. You have been in custody on remand since 19th March 2013.
2. On 13th March 2013 you received a telephone call from the Correctional Centre by Jimmy Warren who asked you to bring cannabis to him at the Correctional Centre. On 16th March 2013 you packed the substance in some paper and Troy Vinia called the driver of his taxi to pick you up so you could deliver the substance to the Correctional Centre. You arranged the parcel and wrote the name "Jimmy" on it. You then went to the Correctional Centre with the parcel on Troy Vinia's taxi and gave the parcel to a Correctional Officer. Upon opening the parcel for checks it was found the parcel contained cannabis.
3. All three of you have accepted those facts. Reuben Bong, your pre-sentence report shows that you have been in prison before in March 2012 when you were sentenced to 2 months imprisonment for receiving property dishonesty obtained. Although this is an unrelated offence, it indicates that your being in detention previously has meant nothing to you or deterred you in any way. Your compliance with parole conditions during your period of parole is unsatisfactory. If that is the attitude you have towards the system that is set

up to assist you to be a better person to contribute usefully to the community, then the only place you should be for this offence is the Correctional Centre.

4. I have heard the Prosecutor and defence counsel in relation to their written submissions and take note of the case of Public Prosecutor v. Bule [2006] VUSC 80. Further, that the substance supplied in this case was not of any commercial value. Firstly, the case of Bule is some six years old. The current trend of offendings involving cannabis is such that the sentence of two months imprisonment suspended for two months for a middle range offence of supply of cannabis, is way far too low as it has no deterrent effect on current offenders and future offenders. Secondly, the submission that the substance you supplied or attempted to supply was of no commercial value is rejected. From the photograph what was delivered to the Correctional Officer on 16th March 2013 by you is a whole branch or stem with leaves. Its weight is given at 11.887 g. in gross and 7.874 g. in net. Surely that has commercial value.
5. Further, defence counsel submitted that the offence of attempt was not completed. That submission is rejected. When the parcel left your hands and got into the hands of the Correctional Officer, it had been delivered. Whether it got to "Jimmy" is immaterial. The offence was complete upon delivery. Fortunately, it did not get to Jimmy because if it did a great number of detainee would have had access to it very easily. But there clearly was an attempt and Jimmy Warren and Troy Vinia clear took part in the offence. Jimmy Warren took part by telephoning you and asking that you bring in the substance. Troy Vinia took part by arranging for his driver and taxi to collect you to the Correctional Centre to deliver the parcel. By law they should be punished in the same way as you are punished.
6. Both Counsel have proposed the Court impose custodial sentences of 6 months as a starting point. I agree. I note the three aggravating features put forward by the Prosecutions. I accept these to warrant the starting point at 6 months imprisonment.
7. I note the mitigating factors submitted by defence counsel in relation to each of you. However, there will be no deductions for any of these. For Jimmy Warren and Troy Vinia, committing other criminal offences whilst serving existing sentences is a serious matter. To deduct their sentence for mitigating

factors would imply that the Court is imposing a punishment with no deterrent element, which is detrimental to the public interest of the Vanuatu Community at large. For Reuben Bong, to supply prohibited substance to a Correctional Centre is equally a serious matter which does not warrant any deduction from the starting point of 6 months. This is to serve also as a deterrence to him and to others who may be minded to do the same.

8. For those reasons, the Court hereby convicts and sentences each of the three of you as follows:-

(a) Reuben Bong – You are sentenced to 6 months imprisonment as charged. Your sentence is deemed to have begun on 19th March 2013 when you were first remanded in custody.

(b) Jimmy Warren – You are sentenced to 6 months imprisonment as charged. Your sentence is made consecutive to your existing term of imprisonment.


(c) Troy Vinia – You are sentenced to 6 months imprisonment as charged. Your sentence is made consecutive to your existing term of imprisonment.

9. Those are the Sentences of the Court.

10. Pursuant to section 18 of the Dangerous Drugs Act Cap. 12, I hereby condemn the cannabis substance held as exhibit by Prosecutions or the Police and order their destruction forthwith.

DATED at Luganville this 12th day of April 2013.

BY THE COURT


OLIVER A. SAKSAK
Judge

