

PUBLIC PROSECUTOR

V

MICHAEL FILFIL

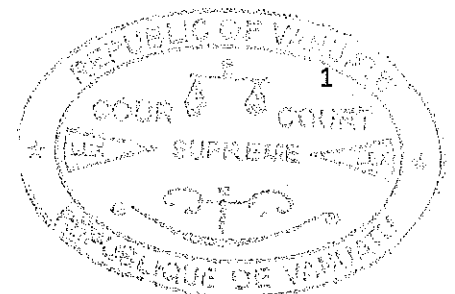
Coram: *Mrs. Justice M.M.Sey*

Counsel: *Mr. Ken Massing for Public Prosecutor*
Ms. Jane Tari for the Defendant

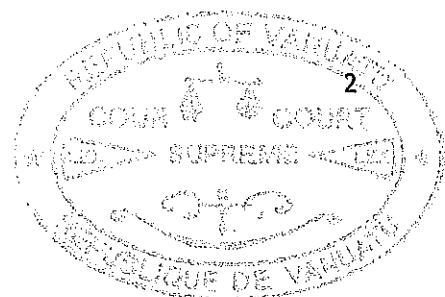
Date: *22nd August 2014*

SENTENCE

1. On the 18th day of August 2014, the defendant **Michael Filfil** was convicted by this Court after he entered a guilty plea upon one count of unlawful possession of cannabis contrary to section 2(62) of the Dangerous Drugs Act [CAP 12].
2. No dispute is taken as to the summary of facts tendered by the prosecutor and the defence concedes to the said facts.
3. The Court had ordered a pre-sentence report to be prepared on the defendant and this Order was complied with. I am grateful to the correctional services for its assistance in this regard.
4. I have also found the sentencing submissions filed by the prosecutor and the defence submission on mitigation and sentence quite helpful.



5. Having perused the pre-sentence report, I note that the defendant is 18 years old and that he dropped out from year 9 at Aore School. He was born in Luganville and had lived in Santo for most of his life. He was adopted by his aunt Mrs. Sandra Rarua after his mother passed away with cervical cancer last year.
6. The pre-sentence report goes on to show that the defendant is generally of good character and that he was influenced by his peers at the time of the offending. The report also assesses the defendant's behaviour as lacking adequate parental support but that he stands a chance of rehabilitation.
7. The Court further notes that Mr. Filfil spent part of 2012 and the whole of 2013 at the Youth Challenge Centre in Luganville participating in work experiences. In relation to his status in his community, the defendant poses basic carpentry skill and he is a member of the Seventh Day Adventist and he attends church regularly. He is also a skilful football player and he plays for his club Sevens FC.
8. I have also taken into consideration a number of mitigating factors, namely:
 - a) The defendant is a first time offender with no prior convictions.
 - b) He pleaded guilty to the offence at the first given opportunity which is a sign of remorse and contrition.
 - c) The defendant co-operated well with the police during their enquiry.
 - d) His mother died last year and his father deserted him which has resulted in him living with his aunt at Sarakata Dark Corner.
9. I have been referred to the guideline case of **Public Prosecutor v Tuk Sope** (2004) VUCA in which the defendant was sentenced to 3 months imprisonment but suspended for 12 months. On appeal, the Court of Appeal did not interfere with the sentence and it also upheld the suspended sentence.



10. It is the submission of defence counsel that the circumstances in the *Sope* case are distinguishable from the circumstances in this present case where the quantity of cannabis with a weight of 3.040 grams is much less than that of *Sope* which was 9.55 + 0.80 grams.
11. In arriving at my sentence, I have considered all the aggravating and mitigating factors presented in the pre-sentence report and the submissions and I have reached the conclusion that this case can appropriately be dealt with by a sentence of community work.
12. In the circumstances, *Michael Filfil*, you are hereby sentenced to carry out 60 hours community work coupled with supervision. You are also to undertake "Niufala Rod Prokram."
13. The said sentence recognizes your early guilty plea. Nonetheless, you are neither to re-offend in this manner nor commit any other criminal offence from now on.
14. You have 14 days within which to file a notice of appeal against this sentence if you do not like it.
15. The Court also hereby Orders that the cannabis found in the defendant's possession be condemned in accordance with section 18(1)(b) of the Dangerous Drugs Act [CAP 12].

DATED at Luganville, Santo this 22nd day of August 2014.

BY THE COURT


M.M. SEY
Judge



SUPREME COURT OF THE REPUBLIC OF VANUATU

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ORDER FOR SENTENCE OF COMMUNITY WORK

(Section 58 A Penal Code Amendment Act 2006)
(Section 58 B Penal Code Amendment Act 2006)
(Section 58 N Penal Code Amendment Act 2006)
(Delete not applicable)

Name: MICHAEL FILFIL

DOB: 29/08/1996

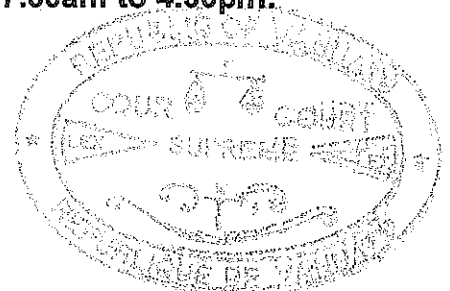
Residential location: Sarakata Dark Corner, Luganville, Santo.

At a sitting of the Supreme Court at Luganville, Santo this 22nd day of August 2014 you were sentenced to 60 hours of Community Work.

Case Number	Offences
110/2014	1. Unlawful Possession of Cannabis, c/s-2(62) of the Dangerous Drugs Act Cap 12.

The Penal Code Amendment Act 2006 requires you to;

1. Report to a Probation Officer as soon as practicable and no later than 72 hours, after sentence is passed.
2. Report to a Probation Officer as directed at any other time during the sentence for the purpose of monitoring the sentence.
3. Notify a Probation Officer, within 72 hours, if you move to a new residential location.
4. Work as directed by the Probation Officer until the total number of community work hours is finished.
5. Perform Community Work every Sunday from 7.30am to 4.30pm.



Other rules of Community Work sentence will be explained to you when you meet your Probation Officer.

DATED at Luganville this 22nd day of August 2014.

BY THE COURT



M.M. SEY
Judge



NOTE FOR COURT: If the sentence is cumulative on an existing sentence of Community Work please state case number: _____