

PUBLIC PROSECUTOR -VS- JAVEN AWA

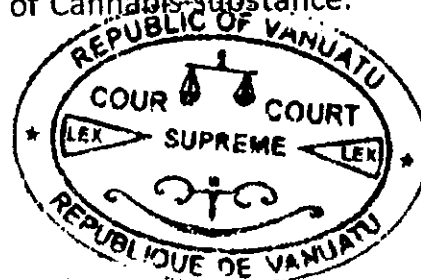
Coram: Mr Justice Oliver A. Saksak

Counsel: Mr Ken Massing for the State
Ms Jane Tari for the Defendant.

Date: 6th March 2014

SENTENCE

1. Javen Awa you are for Sentence today for having pleaded guilty to one charge of unlawful possession of cannabis Contrary to Section 2 (62) of the Dangerous Drugs Act Cap 12.
2. On your own admission this Court convicts and sentences you to 5 months imprisonment suspended for a period of 16 months. This suspension is made under Section 57 of the Penal Code Act Cap 135. The Court reminds you that if you commit this offence again or are charged with any other criminal offences for which you are convicted within the 16 months period, your sentence of 5 months imprisonment will be activated and you will go to prison for 5 months.
3. I consider that this Court should apply the principle set out by the Court of Appeal in the case of Public Prosecutor v. Tuk Sope [2004] VUCA 14 where the Court upheld the sentence of the Supreme Court imposing 3 months imprisonment for unlawfully possessing 9.55 grams of Cannabis substance.



In your case it is noted the Police did not quantify the weight of substance found on your person. Nonetheless the photographs included in the material before the Court show a plastic bag containing plenty of cannabis leaves. These were found on your person in your possession. On the same date when the Police apprehended also Andrew Kelep who appears to be your co-offender. He is charged separately in Criminal Case No. 22 of 2014. You were both apprehended together by the Police at the Daming Store premises.

4. The quantity of cannabis you had in your possession at the date of offending was such that it could not fall within category 1 as laid down in the case of Wetul v. Public Prosecutor [2013] VUCA 26 and therefore this case does not assist you.
5. In light of the current trend of cannabis offending in Vanuatu, it is necessary for the Court to impose a penalty which will act as a deterrence both to you and to others as well.
6. That is the Sentence of the Court for you. You may appeal if you wish against this Sentence in which case you should lodge your appeal within 14 days from this date.

DATED at Luganville this 6th day of March 2014

BY THE COURT


OLIVER A. SAKSAK

Judge.

