



**IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU**  
*(Criminal Jurisdiction)*

**Criminal  
Case No. 22/827 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Brownly Alex  
Defendant**

***Date of PLEA: 6<sup>th</sup> April 2023***  
***Date of Sentence: 4<sup>th</sup> May 2023***  
***Before: Justice Oliver Saksak***  
***In Attendance: Mr Jordan Aru for Public Prosecutor***  
***Ms Linda Bakokoto for the Defendant***

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## **SENTENCE**

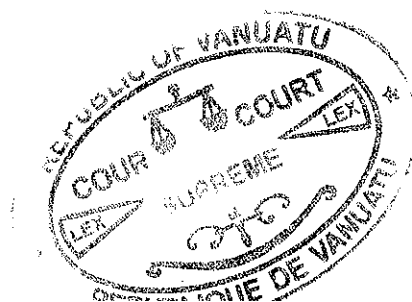
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### **Introduction**

1. Brownly Alex pleaded guilty to one count of unlawful possession of cannabis and is here for sentence today.
2. Unlawful possession of cannabis is an offence under section 2 (62) of the Dangerous Drugs Act [Cap.12]. it carries the maximum penalty of a fine not exceeding VT 100 million or imprisonment not exceeding 20 years or both.

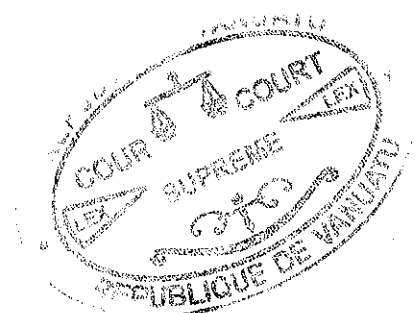
### **Facts**

3. On 20<sup>th</sup> December 2022, at about 10 o'clock am the defendant went to visit an inmate at the Correctional Centre. He brought along assorted food including two bundles of peanut which he intended to be given to Simon Willie.
4. The items were inspected carefully by the gate officer of the facility as part of procedures. The officer noticed something suspicious with a peanut pod on one of the bundles. Upon opening a peanut pod the officer found a pack wrapped in aluminum foil.

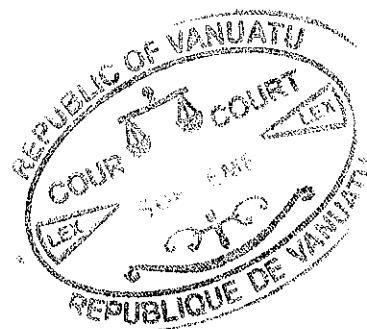


He opened it and found dried cannabis leaves. The Police were alerted and a complaint made, resulting in a charge being laid against the defendant.

5. There were altogether 17 small packages of dried cannabis leaves covered in aluminum foil. The net weight was 4.52 grams.
6. The Police cautioned the defendant on 22<sup>nd</sup> December 2022 who made admissions that he had rolled up the cannabis leaves in aluminum foil and placed them in peanut shells, sealing them with glue. Then he took them to the Correctional Centre with intention to supply the cannabis to an inmate.
7. Sentencing guidelines for drug offences are laid down by the Court of Appeal in Wetul v PP [2013] VUCA 26 where three broad categories are set out.
8. I consider that the defendant's offending in this case falls within category 1.
9. For comparative purposes this case is more serious than PP v Jimmy [2012] VUSC 142 where the Court imposed a start sentence of 15 months imprisonment for possessing 1.37 grams of cannabis.
10. In PP v Bongrain [2022] VUSC 26 there were 4 packages containing 50 grams of cannabis. This case resembles the defendant's case in that there was a deliberate concealment for cannabis and the intention to deliver or supply the substance to others, here an inmate.
11. Those are the aggravating features of the defendant's offending.
12. Taking these features together with the seriousness of the offence, I set the start sentence for the defendant at 20 months imprisonment.




13. The defendant has, accordingly to his pre-sentence report had three previous convictions. In 2019 he was sentenced for theft for 100 hours community work. In 2020 he was sentenced to 12 months imprisonment for theft by the Magistrates Court and in September 2021 he was sentenced to 1 year and 9 months for theft, false pre-tense and idle and disorderly behavior. He was released on parole on 6<sup>th</sup> July 2022 which is still current to 23<sup>rd</sup> July 2023. He committed this offence whilst still serving an imprisonment sentence, but on parole.
14. The defendant has not learned or been deterred by those previous sentences. His offending here is further aggravated by that factor. There is therefore an uplift of 6 months bringing the sentence to 26 months imprisonment.
15. I now consider the mitigating factors to reduce his sentence.
16. I note his guilty plea. I accept it will not be the full one third. I consider he is entitled only to 3 months reduction for his guilty plea. And for his other personal factors he is entitled to an additional 2 months reduction.
17. The defendant's end sentence is therefore 21 months imprisonment. This sentence will not be suspended.
18. I note also that the defendant has been remanded in custody for a period of over 3 months since 9<sup>th</sup> January 2023. I Order that the defendant's end sentence be backdated to 9<sup>th</sup> January 2023 so he does not lose his parole privilege.



19. That is the sentence of the Court on the defendant. There is a right of appeal against this sentence within 14 days, if he chooses to do so.

**DATED at Port Vila this 4<sup>th</sup> day of May, 2023**

**BY THE COURT**

  
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**Oliver Saksak**

**Judge**

