

PUBLIC PROSECUTOR

v

WILLIAM GEORGE

Date of Plea: 24 May 2024
Date of Sentence: 9 July 2024
Before: Justice M A MacKenzie
Counsel: Ms. S. R. Langon for the Public Prosecutor
Mr. H. Vira for the Defendant

SENTENCE

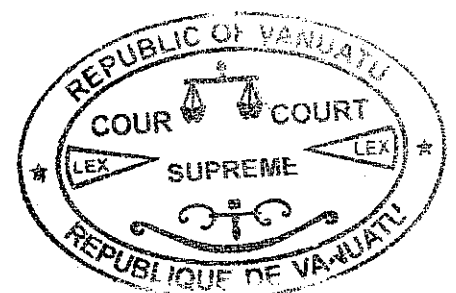
1. Mr William George, you appear for sentence having pleaded guilty to one charge of possession of cannabis. The maximum penalty is 20 years imprisonment, or a fine not exceeding VT 100 million or both.

The Facts

2. On 3 November 2023, police executed a search warrant at your home address. You were present. While you denied there would be any cannabis at your home, police located 216 g of cannabis material. Testing confirmed the dried material was cannabis plant material.
3. The cannabis was found in two different places in your home. Some of the cannabis was packaged as if ready for sale. Further cannabis was in packages covered in foil.
4. You admitted the offending to police, and said it was for medical purposes and sale.

Sentencing purposes/principles

5. The sentence I impose must hold you accountable and must denounce and deter your conduct given that you were in possession of cannabis for sale. Cannabis is an illegal



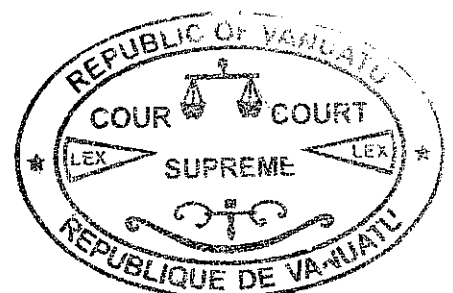
drug which causes social harm. The sentence should ensure you take responsibility for your actions, and help you to rehabilitate. It must also be generally consistent.

Approach to sentence

6. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

Starting point

7. The first step is to set a starting point.
8. The aggravating factors here are firstly, the quantity of cannabis, being 216 g, and secondly, you had the cannabis in your possession to sell it. That means there was a commercial purpose, even if you also used it for medical reasons.
9. There are no mitigating features of the offending itself.
10. There is a guideline case for cannabis cultivation, *Wetul v Public Prosecutor* [2013] VUCA 26. It also applies to possession of cannabis.
11. Both counsel have made written submissions as to the appropriate starting point, and referred the court to cases to assist in selecting the appropriate starting point. The cases are *Public Prosecutor v Abal* [2023] VUSC 162 and *Public Prosecutor v Pakoa* [2020] VUSC 182.
12. *Abal* involved possession of 140g of cannabis. The starting point was 12 months imprisonment. In *Pakoa*, the defendant was in possession of 221.5g of cannabis. He acknowledged he had brought it to Port Vila to sell. As he intended to supply it, the starting point adopted was 12 months imprisonment.
13. There is a commercial purpose to your possession of cannabis and as such it falls within Category 2 of *Wetul*. That said, the starting point must be lower than 2 years as there is no information as to expected sales prices or profits that could be gained from the quantity of cannabis involved. The present case is more serious than *Abal* given the greater amount of cannabis and purpose of sale. It is slightly more serious than *Pakoa*, as you were actually selling the cannabis rather than simply intending to do so.
14. Taking the aggravating factors into account, and the cases I have referred to, I adopt a starting point then of 14 months imprisonment.

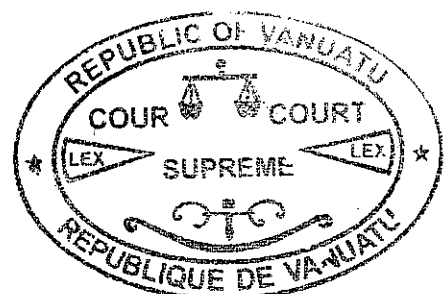


Guilty plea and personal factors

15. You are entitled to a one-third discount for your guilty plea. That equates to a discount of approximately 5 months from the starting point.
16. You are aged 52 years. You have a family you are supporting and are described as a responsible and helpful person in the community by your Chief. You assist in the community.
17. You have support in the community.
18. You have health issues, arising from spinal cord damage.
19. The Probation report notes that you are remorseful. I accept it is genuine.
20. For these personal factors, I give you a further discount from the starting point of 2 months imprisonment, which equates to approximately 10 %.
21. You have previously been before the court. On 22 March 2018, you were sentenced to 100 hours community work for possession of drugs. However, by virtue of sections 58ZG and 58ZH of the Penal Code you are deemed to have a prior clean record so there is no prior conviction to take into account.

End Sentence

22. The end sentence is 7 months imprisonment.
23. Your counsel asks that the sentence be suspended pursuant to s 57 of the Penal Code. This is opposed by the prosecution. Taking into account the circumstances, the nature of the offending and your character, I have decided to suspend the sentence. The net weight of the cannabis was significant, but you are deemed to have a clean record, you are remorseful, accept responsibility and have good community support. Your prospects of rehabilitation are good in all the circumstances. However, the court is troubled by the commercial element. Therefore, I have decided to suspend the sentence for 2 years which is longer than the period of suspension on Abal, to reflect here the need for accountability and deterrence . If you offend again in the next 2 years, you will need to serve the sentence of imprisonment in addition to any other penalty that may be imposed for the further offending.
24. In addition, you are ordered to complete 80 hours of community work and 6-month supervision. Such a combination of sentences will meet the sentencing needs, including accountability, deterrence and denunciation.



25. The cannabis material is to be destroyed.

26. You have 14 days to appeal.

**DATED at Port Vila this 9th day of July 2024
BY THE COURT**

[Handwritten signature]
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Justice M A MacKenzie

