

**PUBLIC PROSECUTOR**  
**v**  
**RAP WILSON**

Coram: *Hon. Chief Justice Vincent Lunabek*

Counsel: *K Massing for the State*  
*B Taleo for the Defendant*

Date of Plea: *22 April 2024*

Date of Sentence: *26 April 2024*

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**SENTENCE**

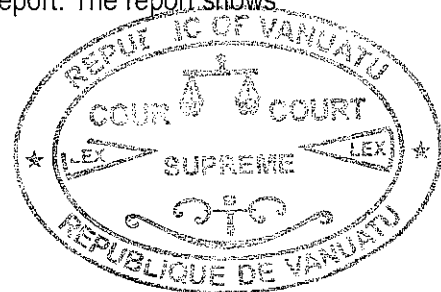
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I. Introduction

1. Mr Rap Wilson ("*Mr Rap*"), you appear today for sentence on one (1) count of prohibited possession of cannabis substances, contrary to Section 2(62) of the Dangerous Drugs Act [CAP. 12].

II. Facts

2. On 22<sup>nd</sup> April 2024, you pleaded guilty to that count and you admitted the following facts:-
  - (a) A formal complaint was made against you for the offence of possession of cannabis materials which are prohibited by the laws of the Republic of Vanuatu.
  - (b) The offending took place on the 12<sup>th</sup> of February 2024. On that date, the police officers who were on duty were asked to assist a person, to get on hold of you in another issue. It was when the police went and took you to the police station that they suspected that you had possession of cannabis substances.
  - (c) At the police station, the police searched you and found inside your trousers a red purse where it contained dried stems and leaves of cannabis plants. The police took the cannabis substances away from you and seized it. The Police Forensic Dugs Unit did a presumptive test and produced a Cannabis Presumptive Test Report. The report shows

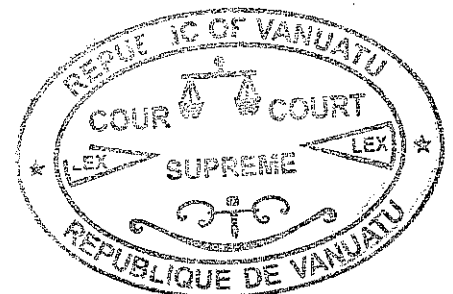


that the cannabis substances that you possessed turned out to be positive of cannabis. The cannabis substances were weighed and the net weight was 8.447 grams.

- (d) You were arrested and then taken to custody. You were cautioned and interviewed by the police where you admitted the allegations made against you.

### III. Sentence Start Point

3. The maximum sentence available is a fine not exceeding VT100 million or to a term of imprisonment not exceeding 20 years or to both such fine and imprisonment.
4. In this case, Mr Rap, you were in unlawful possession of cannabis substances (stems and leaves) with a net weight of 8.447 grams which was an aggravating feature to your offending.
5. I consider the guideline judgment of the Court of Appeal in *Wetul v Public Prosecutor* [2013] VUCA 26, where the Court of Appeal set out the guidelines for sentencing in cultivation of cannabis plants into three broad categories.
6. The circumstances of this case, put the present case under category 1 of the *Wetul* case – and I do so for purposes of sentencing this prohibited possession of 8.447 grams of cannabis substances in this case. Category 1 of *Wetul's* case is where no custodial sentence should be imposed or term of community work could be considered and supervision or over a short custodial term may be imposed.
7. In the present case, I should consider to impose a short custodial sentence to this unlawful possession of cannabis plants weighing 8.447 grams as a sentence start point of say 12 months before I consider any suspension in line with comparable cases such as *Public Prosecutor v Basil* [2011] VUSC 49 and *Public Prosecutor v Eddy Worwor* Criminal Case No. 100 of 2011; where the defendant was charged with one count of possession of cannabis weighing 8.81 grams. The court took in that case, a sentence start point of 15 months imprisonment. The sentence start point was deducted to reflect the mitigating factor. The defendant received an end sentence of 8 months imprisonment. That sentence was suspended for a period of 3 years.
8. The defence counsel referred to *Wetul's* case and that of *Public Prosecutor v Raptick* [2023] VUSC 226 as similar case to the present. In *Raptick*, the defendant pleaded guilty to one count of possession of cannabis. He was in possession of 8 packages having a total net weight of 102.654 grams. The court saw appropriate to impose a sentence start point of 12 months imprisonment. The court made reductions for the defendant's personal factors and early guilty plea. It was further stated by the court that this offending is at the lower end of category 1 in *Wetul v Public Prosecutor* [2013] VUCA 26. The court considered the defendant's prior clean record, earlier guilty pleas and personal factors (he is in defacto relationship, ...). The court considered that it was not appropriate to impose an immediate custodial sentence. The court



exercised its discretion under Section 57 of the Penal Code to suspend the sentence for 12 months plus 60 hours of community work.

9. Mr Rap, the Same Day Report (SDR) shows that you were remanded in custody waiting court's decision or sentence or judgment since 15 January 2024 to this date (26 April 2024). You were remanded in custody for 3 months which is doubling the actual time you spent in custody. I take it that that period amounts to you being serving your sentence. I decide not to make any further sentence.
10. You are accordingly released from custody and be freed.

**DATED at Luganville, Santo, this 26<sup>th</sup> April, 2024.**

**BY THE COURT**



**Hon. Chief Justice Vincent LUNABEK**

