

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**

(Criminal Jurisdiction)

Criminal

Case No. 25/363 SC/CRML

BETWEEN: Public Prosecutor

AND: Tambe Molitavity
Defendant

Date of Plea: 2nd April 2025

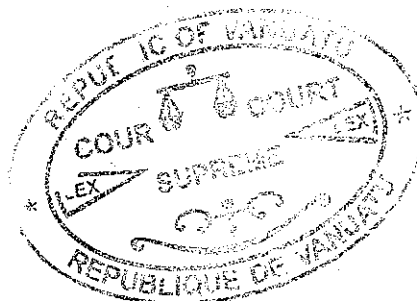
Date of Sentence: 4th April 2025

Before: Hon. Justice Oliver A. Saksak

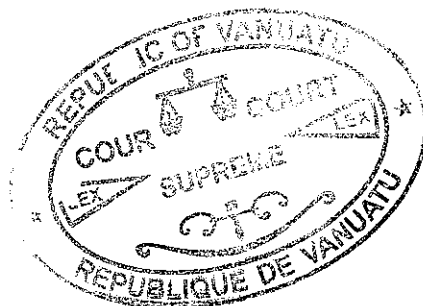
Counsel: Ms Josephine Tete for Public Prosecutor
Mr Lent Tevi for the Defendant

SENTENCE

1. Tambe Molitavity pleaded guilty to one count of cultivation of cannabis contrary to section 4 of the Dangerous Drugs Act [Cap.12]. He is for sentence today.
2. On 7th November 2024 at Alowaru Village, Malo Island the defendant planted 50 stems of cannabis which were uprooted and weighed measuring 6.905kg. These were removed by the Police from the defendant's garden after a complaint was lodged by Sarahlyn Tabi. The plants were tested positive as cannabis. The defendant made admissions to the Police and pleaded guilty in this Court on the facts.
3. Cultivation of cannabis carries the maximum penalty of up to VT 100 million in fines or 20 years imprisonment or both.
4. There are no mitigating circumstances given for the offending.



5. But there are aggravating such as the intentional and deliberate planting of the cannabis, the high quantity of 50 plants weighing 6.905kgs. He had been planting cannabis since 2022. He explained that they were for his personal use only but that is highly unlikely to be the truth.
6. In any event, he is convicted and sentenced on his own guilty plea.
7. The Prosecution's referred to Wetul v PP [2013] VUCA 26, Naia v PP [2020] VUCA 1, Tukuro v PP [1999] VUCA 9, PP v Jimmy [2020] VUSC 252 and PP v lata [2021] VUSC 138. The Court is guided by these cases in assessing the defendant's appropriate sentence.
8. Mr Tevi agreed this is a very serious offending with no mitigating circumstances. He agreed the offence falls within category 2 of the Wetul case. He agreed with the cases referred to by the Prosecutions. He agreed that the quantity was relatively small and that a start sentence of 16 months should be the appropriate starting point and deducted appropriate by a further 3-4 months. He agreed the sentence should be suspended with 60 hours of community work.
9. Taking all the factors into account, it is my view this case falls into category 2 of the Wetul Case. The quantity is more than the quantity in Jimmy's case but very much less then the quantity in lata's cases.
10. I therefore adopt the start sentence of 28 months imprisonment.
11. In mitigation I reduce the sentence by 4 months for his guilty plea. For all his personal factors in his Same Day Report I deduct the sentence by a further 5 months, leaving his end sentence at 19 months imprisonment.
12. I Order that this sentence be suspended for a period of 2 years on good behaviour under section 57 of the Penal Code Act. If he reoffends within this period and is charged and convicted, he will go to prison for 19 months.
13. In addition, I sentence the defendant to community work for 60 hours to be performed within 12 months from the date of this sentence.




14. I condemn the plants in the custody of the Police to destruction forthwith.

15. The defendant has a right of appeal against the sentence within 14 days, if he so chooses.

DATED at Luganville this 4th day of April 2025

BY THE COURT


Hon. Oliver A Saksak

Judge

