

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

Criminal
Case No. 25/367 SC/CRML

BETWEEN: Public Prosecutor

AND: Emme Vira
Defendant

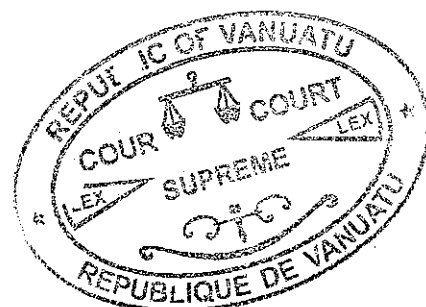
Date of Plea: 31st March 2025
Date of Sentence: 4th April 2025

Before: Hon. Justice Oliver. A. Saksak

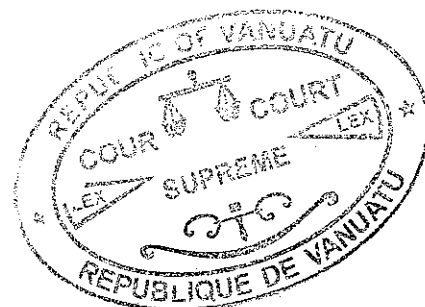
Counsel: Ms Josephine Tete for Public Prosecutor
Ms Barbara Taleo for the Defendant

SENTENCE

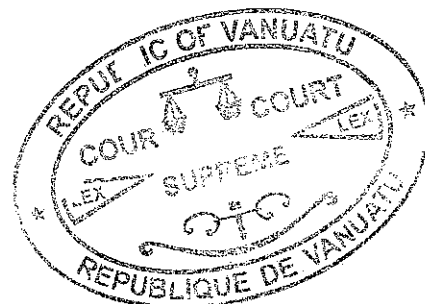
1. Emma Vira appeared before this Court on 31st March 2025 and pleaded guilty to 3 charges of criminal trespass, three charges of malicious damage to property and to one charge of unlawful possession of cannabis plants, the quantity of which was 0.010 grams. And he is for sentence today.
2. The facts are that on July and August 2024 and in January 2025 the defendant entered the compound of Mark Isaiah without authority with intent to cause damage to his yam crops.
3. Following those unauthorised entries, the defendant then damaged Bora yams of the complainant by sticking the yams with his knife causing them to rot in the ground. In July 2024, 5 heads of wild yams were destroyed. In August 2024 10 heads of Bora Yams and 76 heads of Maro Yams were damaged.



4. Subsequent to a complaint lodged, the Police arrested the defendant on 4th February 2025 and found cannabis substance in his clothing. The quantify was 0.010 grams tested positive to be cannabis.
5. The defendant accepted the facts as read by the Prosecutor
6. The defendant is convicted and is to be sentenced on his own guilty pleas on the facts as presented.
7. The only explanation he gave for taking the actions against the complainant was that the complainant had killed three of his nanny goats and was not willing to pay a fine for them or replace them.
8. That of course cannot be a mitigating circumstances. The defendant always had the right to make a formal complaint to the Police about his animals and let them deal with it according to law, however he took the law into his own hands.
9. He entered the complainant's yard three times with a knife. And he damaged a very valuable crops of the complainant on three different occasions. He used a knife to destroy the yams in the ground causing them to rot away. His actions were planned and deliberate. They were repeated.
10. He admitted having cannabis substance in his possession at the time of his arrest.
11. Prosecutions referred the Court to PP v Jack [2024] VUSC 49, PP v launam [2023] VUSC 107 and Wetul v PP [2013] VUCA 26. The cases of Jack and launam differ on their facts and circumstances and are not helpful to the Court. The case of Wetul is applicable as far as the charge in relation to cannabis is concerned.
12. Defence Counsel referred the Court to Heromanly v PP [2010] VUCA 25, Rory v PP [2017] VUCA 23, PP v Sope [2020] VUSC 249, PP v Seth [2021] VUSC 66 and PP v Lasekula [2012] VUSC 236.



13. Heromanly and Rony cases involved unlawful entry, theft and damage charges and were different in nature and circumstances. Sope and Seth cases were also different involving assaults and arson charges as well. Therefore those cases do not assist the Court.
14. Considering the above cases in light of the mitigating circumstances, the aggravating features and the seriousness of the offendings, I sentence the defendant as follows-
- a) For criminal trespass, Counts 1, 2 and 3- A sentence of 6 months imprisonment on each count to be served concurrently.
 - b) For Malicious damage to property Counts 4, 5 and 6- A sentence of 12 months imprisonment on each count to be served concurrently but be made cumulative to the 6 months sentences for the trespass charges in Counts 1, 2 and 3 because these were separate offendings.
 - c) For unlawful possession of cannabis, Count 7- A sentence of 3 months imprisonment to be served concurrently with the 6 months sentences for the changes in Counts 1, 2, 3, 4, 5 and 6.
15. The total sentence of the defendant shall be 18 months imprisonment.
16. In mitigation I take into account his guilty pleas and deduct his sentence of 18 months by 6 months, leaving the balance to be 12 months imprisonment.
17. For his other personal factors in his Same Day Report including the 28 days spent in custody from 5th February 2025, I deduct the balance of his sentence by a further 2 months, leaving his end sentence to be 10 months imprisonment.
18. I Order that the end sentence be suspended on good behaviour under section 57 for a period of 2 years from the date of sentence. He must remain offence free for the period. If he commits further offences and is charged and convicted, he will go to prison to serve his 10 months sentence.
19. In addition, I sentence the defendant to a sentence of community work for 70 hours to be performed within 12 months from the date hereof.




20. That is the sentence of the Court. If the defendant is dissatisfied with his sentence, he may appeal within 14 days.

21. I condemn any substances in Police custody to destruction taken from this defendant forthwith.

DATED at Luganville this 4th day of April 2025

BY THE COURT


Hon. Oliver A Saksak

Judge

