

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

Criminal
Case No. 25/376 SC/CRML

BETWEEN: Public Prosecutor

AND: Johnny Toa
Defendant

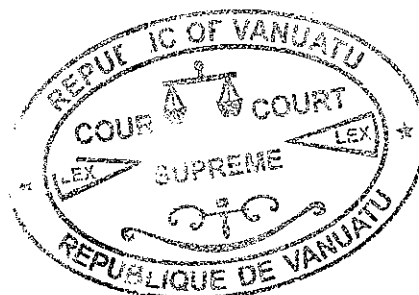
Date of Plea: 31st March 2025
Date of Sentence: 4th April 2025

Before: Hon. Justice Oliver A. Saksak

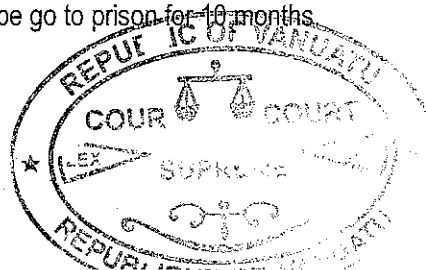
Counsel: Ms Josephine Tete for Public Prosecutor
Ms Barbara Taleo for the Defendant

SENTENCE

1. Johnny Toa pleaded guilty to one charge of domestic violence (sections 4 (1)(a) and 10 (1) of the Family Protection Act No. 28 of 2008, and to one charge of cultivation of cannabis, (section 4 of the Dangerous Drugs At [Cap. 12] and he is here for sentence today.
2. The facts are simple. On 7th October 2024 at Fanafo area, Santo the defendant assaulted his defacto partner, Nancy Kenneth on her face, mouth and nose causing bleeding to her nose for which he later apologised.
3. A day later on 8th October 2024 after a complaint of domestic violence was made, him the Police went to the defendant's house and removed 5 stems of cannabis plants, grown in front of the house.
4. The defendant made admissions to the police. And he has accepted the facts as stated by the Prosecution. Accordingly the Court convicts and sentences him on his own guilty pleas.



5. In assessing appropriate sentences. I have considered the submissions both by the Prosecution and by defence Counsel. I have also considered the Same Day Report submitted by the Probation Officer.
6. Prosecutions submitted the cases of PP v William [2023] VUSC 163, PP v Kalo [2023] VUSC 164 in relation to the domestic violence charge and to Wetul v PP [2013] VUSC 26, PP v Kaiding[2024] VUSC 93 and PP v Andfalo [2024] VUSC in relation to the cultivation of cannabis charge.
7. Defence Counsel submitted the cases of Naio v PP [1998] VUCA 1, Wetul v PP [2013] VUCA 26, PP v Macreveth [2024] VUSC 228, PP v Pakoro [2022] VUSC 65 and Nampo v PP [2018] VUCA 43 all in relation to the cannabis charge.
8. No two cases are or can be the same. All cases are different on their facts and circumstances. But I think the principles are available in those cases to guide the Court in assessing appropriate sentences.
9. And applying those principles I sentence the defendant as follows:-
 - a) For domestic violence – 12 months imprisonment to be served concurrently with the sentence for the charge in Count 2.
 - b) For cultivation of cannabis- Count 2- a sentence of 15 months imprisonment to be concurrently served.
10. The defendant's total sentence shall be 15 months imprisonment to be served concurrently.
11. In mitigation I consider first his early admissions and guilty pleas. I also have regard to his clean past record, the reconciliation ceremony he performed showing remorse, that he spent about 13 days in custody and his other personal factors shown in his Same Day Report, I Order that 5 months be deducted for all these factors. That leaves his end sentence to be 10 months imprisonment.
12. It is my view that the sentence be suspended on good behaviour for a period of 2 years from the date of this sentence, under section 57 of the Penal Code Act. If he commits any further offences for which he would be charged and convicted, he will be go to prison for 10 months.



13. To be consistent with precedents I sentence the defendant to an additional sentence of 60 hours of community work to be performed within 12 months from the date of this sentence. A separate order will be issued in this regard.
14. Finally I condemn any cannabis substance in the custody of the Police to be destroyed within 7 days from the date of this sentence.
15. There is a right of appeal within 14 days if the defendant disagrees with the sentence.

DATED at Luganville this 4th day of April 2025

BY THE COURT


Hon. Oliver A Saksak

Judge

