

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

**Criminal**  
**Case No. 25/1478 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**GABRIEL NALAU**

Date of Plea: 3 June 2025  
Before: Justice M A MacKenzie  
In Attendance: Public Prosecutor – Ms L Lunabek  
Defendant – Ms C Dehinavanua

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**SENTENCE**

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**Introduction**

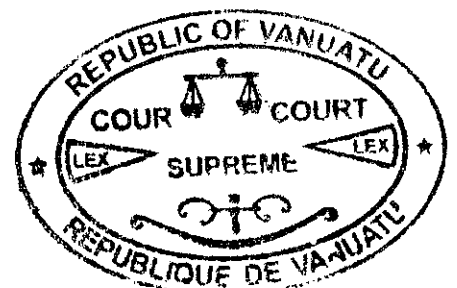
1. Mr Gabriel Nalau, you appear for sentence having pleaded guilty to one charge of cultivation of cannabis. The maximum penalty is 20 years imprisonment, or a fine not exceeding VT 100 million or both.

**The Facts**

2. In March 2025, police received information relating to illegal cultivation of cannabis. That led police to search your garden and uprooted 3 plants from the garden. Testing confirmed the plants were cannabis, with a total net weight of 0.84 kg. This is 840 g.
3. Under caution, you admitted planting the cannabis and also smoking it.

**Sentencing purposes/principles**

4. The sentence I impose must hold you accountable and must denounce and deter your conduct given that you were cultivating cannabis, which is illegal and 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

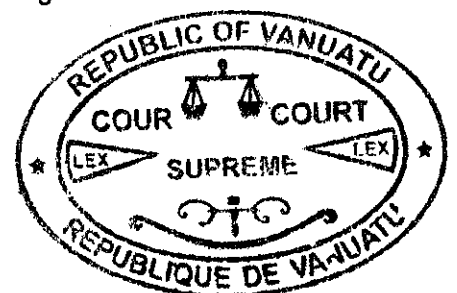
5. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

### The Starting Point

6. The first step is to set a starting point taking into account the aggravating and mitigating features of the offending, and with reference to the maximum penalty for the offence.
7. The aggravating factors here are that you deliberately cultivated the cannabis, and the cannabis plants had a net weight of 840 g.
8. There are no mitigating features of the offending itself.
9. There is a guideline case for cannabis cultivation, *Wetul v Public Prosecutor* [2013] VUCA 26. Here, the cultivation involved 3 plants for personal use. There is nothing to suggest cultivation for a commercial purpose. While the net weight of the plants is moderately serious, the offending here falls within category 1 of *Wetul*. So, the usual sentencing outcome would be a fine or other community-based sentence, or a short custodial sentence.
10. Both counsel have filed helpful written submissions as to the appropriate starting point. The prosecutor submits that the appropriate starting point is 16-20 months imprisonment. Your lawyer submits that the starting point should be 12 months imprisonment. *Public Prosecutor v Akiro* [2024] VUSC 173 provides some assistance. The offending in that case involved cultivation of 3 cannabis plants with a net weight of 750 g. It fell within Category 1 of *Wetul*. The starting point was 18 months imprisonment. The offending in the present case is broadly similar to *Akiro*.
11. Accordingly, I adopt a starting point of 18 months imprisonment, taking into account the aggravating factors I have referred to, and with reference to the starting point adopted in *Akiro*.

### Guilty plea and personal factors

12. While you did plead guilty at an early stage, I agree that the sentence should be reduced by 25 %. That is because the case against you is overwhelming. That reduces the sentence by 4 ½ months.



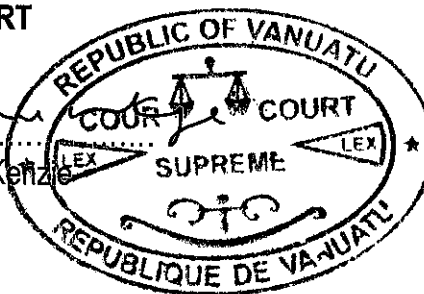
13. You are aged 23 years, are a first offender and cooperated with police. You come from Tanna Island but are currently living at Teouma. Your education was limited due to difficulties in paying the school fees. You are described by your chief as a person who sometimes does not listen. You do have good support in the community. You are remorseful and acknowledge your actions were wrong. You say you have learnt your lesson.
14. Given your previous good character, remorse and cooperation with police, the sentence is reduced by 2 months, which equates to approximately 10 %.
15. You have been remanded in custody since 27 March 2025, a period of 78 days, which equates to a term of imprisonment of 5 months 7 days. The sentence is reduced by 5 months 7 days to reflect that factor.

### End Sentence

16. The end sentence is 6 months 1 week's imprisonment.
17. Taking into account the circumstances, the nature of the offending and your character, I have decided to suspend the sentence pursuant to s 57 of the Penal Code for 12 months. First, this is because you cultivated the cannabis for personal use. Second, you have learnt your lesson, you are a first offender and were co-operative with police. In those circumstances, suspending the sentence will meet the need for accountability, deterrence and denunciation and will promote in you a sense of responsibility. If you offend again in the next 12 months, you will need to serve the sentence of imprisonment in addition to any other penalty that may be imposed for the further offending.
18. I consider that a sentence of 6 months supervision should also be imposed to assist you in your rehabilitation, given the matters contained in the presentence report.
19. The cannabis material is to be destroyed.
20. You have 14 days to appeal.

**DATED at Port Vila this 12th day of June 2025  
BY THE COURT**

.....  
Justice M A MacKenzie

The seal of the Supreme Court of the Republic of Vanuatu is circular. It features a central emblem with a scale of justice and a book. The words "REPUBLIC OF VANUATU" are written in an arc at the top, and "REPUBLIQUE DE VANUATU" at the bottom. Inside the circle, the words "COURT" and "COURT" are on either side of the central emblem, and "SUPREME" is at the bottom. The word "LEX" is written on a banner across the middle.