

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

Criminal Case No. 51 of 2010

PUBLIC PROSECUTOR

V.

LEO ALOA

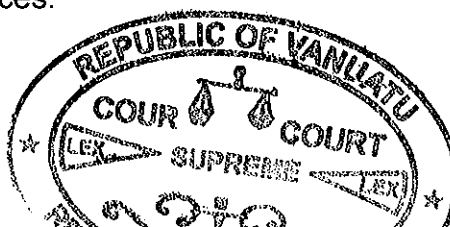
Coram: Justice D. Fatiaki

Counsel: Mr. Standish for the State
Mr. Molbaleh for the Defendant

Date of Sentence: 24 August 2010

SENTENCE

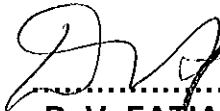
1. On 1 June 2010 the Defendant pleaded guilty to and was convicted of the following offences – Malicious Damage; Cultivation of Cannabis and Possession of a Cannabis seed.
2. The brief facts of this case are that on 29 September 2009 the Defendant in a fit of anger damaged a metal thermos hot water bottle by cutting it with a bush knife. He became angry when his elder brother asked for the return of his mobile phone which the Defendant had borrowed several weeks earlier. The police were called and during the course of their inquiries they uprooted 15 small plants from the Defendant's garden. They also found a seed inside the Defendant's bedroom. The plants and the seed later were tested and positively proved to be cannabis. The plants weighed a total of 2.17gms.
3. The Defendant is 33 years of age, and lives with his parents at Erakor Village. He is the 5th child in a family of 7 children and is still single. He has primary school education only and he worked for a time as a casual labourer with a construction company. He is helping with the construction of the Assemblies of God Church in the Village. The Defendant admits to being a user of cannabis. He has reconciled with his brother and family after the incident and says he wants to change his life for the better. When interviewed by the police the Defendant said that he was motivated by money when he planted the cannabis seedlings.
4. The Defendant's pre-sentence report recommends a sentence of supervision with special conditions. Prosecuting counsel suggests a suspended prison sentence "to mark the gravity of the offending and provide an incentive to remain crime free." Finally defence counsel proposes a fine for the malicious damage charge and a short suspended prison term for the drug offences.



5. I accept that this case began as a family dispute which escalated out of hand and is not a case that calls for an immediate custodial sentence. I also accept that the Defendant has lived a crime-free life for the past 30 odd years and is not a danger to the community. The Defendant frankly admitted his actions to the police and pleaded guilty at the earliest opportunity. The quantity of cannabis plants recovered was small and comprised immature seedlings with no commercial value.
6. The Defendant presents a difficult sentencing problem. As a mature man and a first offender it would be inappropriate to treat him as if he were a young immature person in need of supervision. Furthermore the underlying dispute that culminated in the damaging property charge was a private domestic affair but the intentional cultivation of cannabis is unrelated and occurred sometime previous to the incident. It was motivated by a profit motive.
7. Doing the best I can in all the circumstances, I sentence you Leo Aloa as follows:-
- On Count 1 of Malicious Damage a fine of VT3,000 to be paid within 14 days, in default, 24 hours of community service. The whole of the fine, if paid, is to be paid as compensation to Samuel Aloa;
 - On Count 2 Cultivation of a Prohibited Substance I impose a sentence of 6 months imprisonment suspended for 12 months;
 - On Count 3 Possession of a Prohibited Substance, I impose a sentence of 3 months imprisonment suspended for 12 months to be served concurrently with the sentence imposed in Count 2.
8. Leo Aloa you are warned that if you are convicted of another offence within the next 12 months, you will go to prison immediately for 6 months in addition to any other sentence you may receive for re-offending. Whether or not you stay out of trouble for the next 12 months is entirely within your control Leo Aloa and I urge you not to appear in Court again.
9. You have 14 days within which to appeal this sentence if you do not agree with it.

DATED at Port Vila, this 24th day of August, 2010.

BY THE COURT.


D. V. FATIA
Judge.

