

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

Criminal Case No. 71 of 2009

PUBLIC PROSECUTOR

-V-

MALACHI ABEL

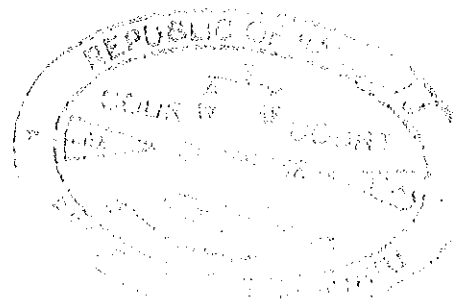
Coram: Justice N. R. DAWSON

Date of Sentencing: 14th December, 2010

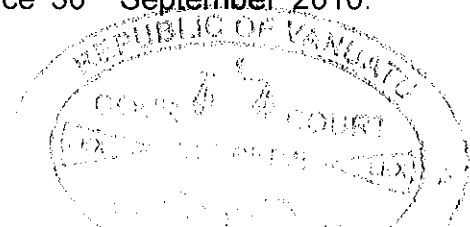
*Counsel: Mr. F. Nwango for Public Prosecutor
Mr. E. Molbaleh for Accused*

SENTENCE

1. Mr. Abel appears in Court today for sentencing on two charges. Count 1 is the Possession of Cannabis, count 2 is a charge of Harboursing and Assisting a Prisoner.
2. The facts of this matter are that the defendant who was 20 years of age and is a farmer, was on 22nd March 2009, taken to the Vanuatu Mobile Force camp after being suspected of having cannabis leaves in his possession and also for harbouring and assisting two escaped prisoners at his home.
3. Mr. Abel confirmed to the VMF Officer that he had in his possession cannabis leaves and that he had been harbouring the two escaped prisoners at his house in the Teouma area.
4. I note that Mr. Abel is 20 years of age and he has no previous convictions. I have received and read the Probation Report along with the submissions from the Prosecution and Defence counsel.



5. Mr. Abel when sentencing you today, it is necessary to impose a sentence that will promote a sense of responsibility within you and I also need to take into account the relative seriousness of this offence compared to others.
6. There were no aggravating features to your offending I need to take into account. In mitigation, I note that you are still only 20 years of age that you entered a guilty plea at the earliest stage and you were helpful to the Police once you were arrested. You have also expressed, and it appears to be genuine, remorse, and you have no prior convictions on your record. You appear to be a young man of good character who was naïve in housing the two escaped prisoners. However, assisting escaped prisoners is a serious offence. These people have been placed in custody for very good reasons and if they escape then it is imperative that they be returned to the prison as soon as possible and that is made more difficult if people harbour them and give them a place to live. Your responsibility as a citizen of the community was to ring the Police to report their presence to them, not to keep them in your house.
7. Your Probation Report notes that you are a very quiet person and you follow instructions respectfully. You appear to be a model prisoner, while you have been in custody.
8. I accept Mr. Abel that your offending has been caused by your naivety. However, you need to grow up and be a responsible citizen in the community. I think you have the attitude to be able to do this.
9. However, in sentencing you I must take into account the seriousness of your offending, particularly the harbouring of prisoners. On the charge of possession of cannabis you are convicted and sentenced to 1 month imprisonment. On the charge of harbouring prisoners, which is the more serious offence, you are convicted and sentenced to a term of six months imprisonment and that is concurrent with the possession of cannabis sentence. I note that you have previously been in remand for a month from 23rd March 2009 to 23rd April 2009 and you have been in custody awaiting sentence since 30th September 2010.

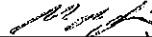


You have therefore served 3 months and 15 days in prison. This time needs to be taken off from the total of 6 months sentence today, and you have only 2 months and 15 days left to serve from today. But I also note that you are entitled to automatic parole today as you have already served over half of the sentence that I have imposed today. You should therefore be released from prison today.

10. You have the right to appeal this sentence. For any appeal you must lodge a notice of appeal within 14 days of today's date.

Dated at Port Vila, this 14th day of December, 2010

BY THE COURT



N. R. DAWSON
Judge

