

**PUBLIC PROSECUTOR**  
-v-  
**SAMUEL NASAMAL**

**Coram:** V. Lunabek CJ

**Counsel:** Mr Tristan Karae for the Public Prosecutor  
Mr Henzler Vira for the Defendant

**Date of plea:** 24 August 2011  
**Date of sentence:** 25 August 2011

**SENTENCE**

Mr Samuel Nasamal you appear today for sentence. On 24 August 2011 you entered a guilty plea on one count of cultivation of cannabis plants, contrary to section 4 of the Dangerous Drugs Act [CAP.12].

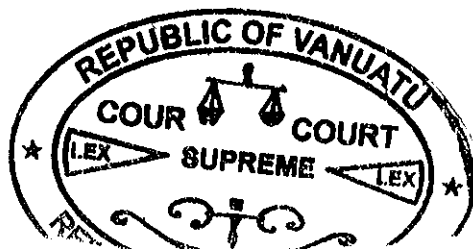
The brief facts of this case are provided by the prosecution. Your lawyer does not dispute them on your behalf and you enter a guilty plea on the basis of those facts. They are as set out below:

The complainant of this case is a police officer. On or about the 17 March 2011 around 14h40 the complainant, Officer Peter Tao and his colleagues arrested you at Lenakel, Black man town in relation to the allegations that you were cultivating and selling cannabis materials to the public.

Before the arrest the complainant had information from the villagers of Lowkamal that you were cultivating, supplying and selling cannabis materials and also encouraging your friends to engage in the cultivation of cannabis because it earns huge incomes in terms of money. The complainant then took the initiative to conduct an awareness program at your village at a nakamal called Lowkamal to discourage young people and public not to cultivate or involved in drugs and to cut down any cannabis plants that may have already been cultivated.

However, despite these efforts you still engaged in the cultivation of cannabis and you owned approximately 100 full grown cannabis plants.

After your arrest, the complainant and some police officers went to your garden at Leneai on the 18<sup>th</sup> of March 2011 and began destroying the plants which were suspected of being cannabis plants. Then on the next day the 19<sup>th</sup> March 2011 the complainant and some police officers including the villagers went to Lounawaruru and there they also destroyed the suspected cannabis plants including taking photos of the plants.



The suspected cannabis plants were wrapped in four parcels and were sent over to the lab at the Vila Police Station for testing. The lab results showed that the suspected plants were of cannabis. The first parcel marked 1 was over 1 kilogram, the second parcel marked 2 weighed at 210.63 grams, the third parcel marked 3 also weighed over 1 kilogram and the fourth parcel marked 4 weighed 116.0 grams. The total weigh of the cannabis you had cultivated is 2,326.63 grams. It is well over 2 kgs.

In summary, you cultivated cannabis plants. You own approximately 100 full grown cannabis plants weighing more than 2 kgs of cannabis substance despite the fact that you know that it is against the law of Vanuatu.

When I consider your sentencing, I take into account of the submissions made by the prosecution and submissions made by your lawyer on your behalf. I also take into account of the information provided by the Probation Officer in his oral report to assist the Court in your sentencing.

Section 4 of the Dangerous Drugs Act [CAP.12] prohibits and criminalizes the cultivation of cannabis plants. The maximum penalty imposed for such an offence is a fine of Vatu 100 million or 20 years imprisonment or both.

The severity of the penalty imposed by law reflects the seriousness of such an offence.

In the present case, the circumstance of your offending is aggravated by the following factors:

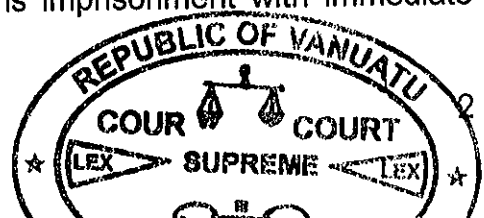
- You defiance of the law to cultivate cannabis plants despite the fact that you know that cultivating cannabis is against the law of Vanuatu
- You encourage others to plant cannabis
- You have about 100 full grown cannabis plants (adults) which reflected few years of cultivation of cannabis.
- The total weight is 2,326.63 grams. It is a substantial amount of cannabis.
- You cultivated cannabis plants with the intention to supply them and sell them for commercial purposes.

I sentence you to 5 years imprisonment as a starting point.

In mitigation, your lawyer informs the Court that you are 25 years of age. You are married and you have a child boy of 8 months. You are a first time offender and you plead guilty at the first opportunity given to you by the Court. I reduce your imprisonment sentence of 5 years to 2 years and ½ to reflect your guilty plea, your remorsefulness, your cooperation with the police and the fact that you are a first time offender.

I ask the question whether I should suspend your imprisonment sentence. I decline to do so as cultivation of cannabis plants for commercial purposes (like selling cannabis substance for commercial purposes) are on the high scale of this type of offending. They are so serious that they require immediate custodial sentence.

You are ordered to serve 2 years and 6 months imprisonment with immediate effect.

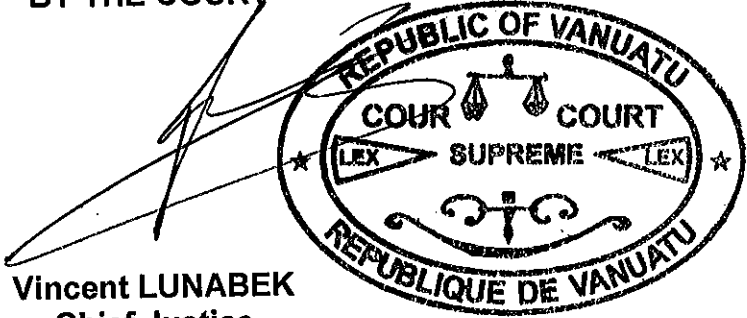


You have 14 days to appeal your sentence if you are unsatisfied with it.

Finally, the total amount of cannabis plants seized in your gardens must be condemned by 14 days from today's date.

**DATED at Isangel, Tanna this 25<sup>th</sup> day of August 2011**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**