

PUBLIC PROSECUTOR

-V-

PHILIMON JOE

Coram: Justice D. Fatiaki
Counsel: Mr. T. Karae for the State
Mr. E. Molbaleh for the Defence
Date of Sentence: 15 February 2011

SENTENCE

1. The defendant was convicted on 7 December 2010 after he pleaded guilty to an offence of Possession of Cannabis. He was arrested by the Police who went to a nakamal at BP Wharf area after a report that there were boys smoking cannabis. A quantity of **1,07grams** of cannabis wrapped in an ATM receipt paper was recovered from the defendant
2. Drug offences are serious matters and the Courts have a duty within its limited capacity, to take stern measures to discourage and eliminate the incidence of drug use in the community. Having said that the Courts must always bear in mind the particular circumstances of a given case before it, as each case must be considered in light of its own facts. (see: Naio v. PP [1998] VUCA 1).
3. The prosecution properly concedes that there are **no** aggravating factors in this case. On the other hand there are several mitigating factors in the case which in my view, clearly supports a non-custodial measure being adopted in this case in respect of the defendant.
4. The defendant is a young man of 22 years of age and a first offender. He is in a steady defacto relationship and, is the father of a young boy. He pleaded guilty to the offence and voluntarily surrendered the cannabis to the police. The cannabis involved is a minimal amount with no commercial value and the defendant is employed with a regular income.
5. In the above circumstances an immediate prison term is inappropriate and would, in my view constitute a disproportionate response to the facts of the case.
6. Having said that, and to remind and assist the defendant to stay out of trouble I propose to impose an individualised sentence. Accordingly the defendant is sentenced to **6 months** imprisonment suspended for a period of 12 months.



7. If you behave yourself for the next 12 months and stay out of trouble then you will not need to serve this prison sentence but if you ignore this warning and reoffend, you will be required to serve 6 months imprisonment in addition to any other sentence you may receive for your re-offending.
8. I also sentence the defendant to **40 hours** of community work to be performed on weekends in order to avoid interfering with his employment.
9. For completeness, I order that the cannabis seized from the defendant be destroyed.
10. You have 14 days to appeal this sentence if you do not agree with it.

DATED at Port Vila, this 15th day of February, 2011

BY THE COURT

