

**PUBLIC PROSECUTOR – VS- COLOMBUS WETUL**

**Coram:** Mr. Justice Oliver Saksak

**Counsel:** Mr. P. Wirrick for Public Prosecutor  
Miss J. Tari for the Defendant

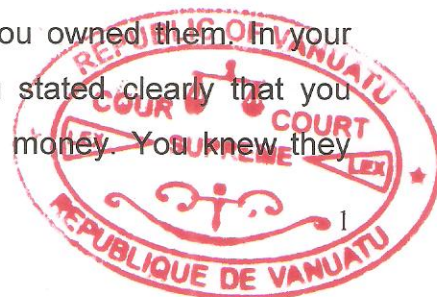
**Date of Sentence:** 14<sup>th</sup> May 2013

**SENTENCE**

1. Columbus Wetul you pleaded guilty to one charge of cultivation of cannabis contrary to section 4 of the Dangerous Drugs Act Cap. 12.
2. The maximum penalty for this offence is a fine not exceeding VT100 Million or imprisonment not exceeding 20 years, or to both.
3. You have accepted the facts as presented by the prosecutions in the brief facts of their submissions dated 25<sup>th</sup> April 2013 at paragraphs 1 – 4. I summarise them as follows:

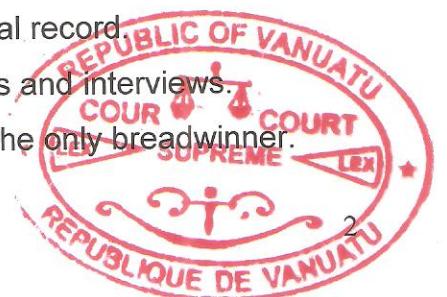
*You are 33 years old and working at Milai Plantation. You planted 9 seeds of cannabis in your vegetable garden in or about September 2012. You cared for the plants until they grew to around 2.5 metres tall. The police removed them on 2<sup>nd</sup> February 2013. The police tested samples of the plants and confirmed them to be cannabis. Each plant was measured showing heights of 2.80 cm, 3 metres, 2.40 cm, 2.06 cm, 2.80 cm, 2.50 cm, 2.65 cm, 2.50 cm and 2.50 cm. The total net weight of the plants was given at 6.8 kilograms.*

4. You invited 4 of your fellow plantation workers to your garden in December 2012 and showed them the plants and told them you owned them. In your Record of Interview in answer to Question 29 you stated clearly that you intended to sell the plants because they earn good money. You knew they



were cannabis plants and you knew their value for money. That is why you planted them, cleaned them and cared for them (see Question 32). I consider these to be the aggravating features of your offending.

5. In considering the appropriate penalty, I accept this Court should follow the sentencing principle set out by the Chief Justice in the case of Public Prosecutor v. Samuel Nasama VUSC: Criminal Case No. 104 of 2011. Whilst in that case the number of plants planted were 100, they had a total weight of just over 2 kilograms. And the defendant in that case intended to supply and sell the plants for commercial gains. I consider that your case falls on the same scale as Samuel's case but a little on the lower end of the scale due to the lower number of cannabis plants of 9, compared to 100.
6. This Court must impose a sentence that will act as a deterrence both to you and to others who would think in the same way as you do. As such, only a custodial sentence will be the appropriate punishment for you.
7. The cases of Public Prosecutor v. Malau [2009] VUSC 30 Criminal Case No. 77 of 2006 and of Public Prosecutor v. Kiri [2008] VUSC 81 Criminal Case No. 66 of 2006 are distinguished and therefore are not applicable.
8. You are therefore convicted and sentenced to imprisonment for 5 years as the starting point. There will be no uplift.
9. In mitigation I accept that you are entitled to 1/3 reduction for your early admission of guilt and guilty plea at first given opportunity. Your sentence of 5 years imprisonment is therefore reduced by 1 year and 8 months leaving the balance of 3 years and 4 months imprisonment.
10. I consider that a further reduction should be given for the following mitigating factors –
  - (a) Being a first time offender with no previous criminal record.
  - (b) Good cooperation with police during investigations and interviews.
  - (c) Being a family man with 5 children and a wife as the only breadwinner.



For these I deduct a further 12 months from the 3 years and 4 months sentence leaving the balance at 2 years and 4 months imprisonment. There will be no suspension of sentence. Your sentence takes effect on the date of Sentence.

11. You have a right of appeal against sentence within 14 days from today if you so choose.

12. Pursuant to section 18 of the Drugs Act Cap. 12, I hereby condemn all the plants, substances and materials held as exhibit by either the Police or the Prosecutions. I further order the destruction of all such plants, substances or materials so held within 48 hours from the date of this Sentence. The Prosecutions shall furnish the Court with a written report of such destruction within 2 days thereafter.

**DATED at Luganville this 14<sup>th</sup> day of May 2013.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge**

