

**PUBLIC PROSECUTOR – VS – JASON BOE**

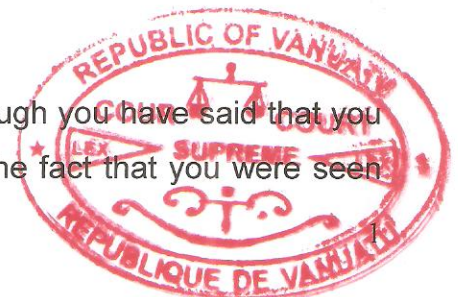
**Coram:** *Mr. Justice Oliver A. Saksak*

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

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

**SENTENCE**

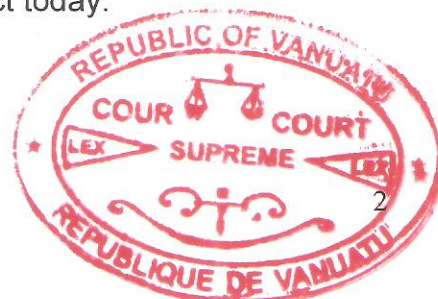
1. Jason Boe, you pleaded guilty on 4<sup>th</sup> April 2013 to one charge of cultivation of cannabis contrary to section 4 of the Dangerous Drugs Act Cap. 12. The maximum penalty for this offence is a fine not exceeding VT100 Million or imprisonment not exceeding 20 years, or to both.
2. You are a 22 year old man living at Jubilee Farm area. You are unemployed. You have admitted planting 6 seeds of cannabis. You looked after them until they grew to heights of 94, 140, 140, 130, 100 and 120 centimetres each. A chief suspected that you and your friends were smoking cannabis so he checked out your gardens on 15<sup>th</sup> March 2013. He discovered the 6 plants and reported the matter to the police. The police took steps to remove the 6 plants which weighed 293.37 grams. You have conceded those facts.
3. Your case falls within the same category as the case of Public Prosecutor v. Samuel Nasamal [2011] VUSC Criminal Case No. 104 of 2011 and Public Prosecutor v. Columbus Wetul [2013] VUSC Criminal Case No. 9 of 2013. The quantities, weights and heights or sizes of cannabis in those two cases were different but the fact that the plants were cultivated with intent for commercial purposes made the defendants' offending serious enough to warrant the Court imposing imprisonment terms.
4. Your case and offending involves cultivation. Although you have said that you did not intend to sell the plants to make money, the fact that you were seen



smoking the substance with your friends by the chief indicate and imply that you were the one who supplied the substance. The quantity and the sizes of the 6 plants were such that if left undiscovered, would have grown to the same sizes and height as those 9 plants in the case of Colombus Wetul. However it is my view that you should receive a lesser sentence than Samuel and Colombus.

5. It is also the view of the Court that your case is distinguished from the cases of Public Prosecutor v. Malau [2009] VUSC 30 and Public Prosecutor v. Kiri [2008] VUSC 81. Those cases therefore render no assistance to your case.
6. It is necessary for the Court to impose a sentence that will deter both yourself and others in light of the increase of drug offendings in Vanuatu today.
7. The Court is therefore of the view that a custodial sentence is appropriate. You are therefore convicted and sentenced to imprisonment for a period of 5 years as the starting point. There will be no uplift.
8. In mitigation, you are entitled to a 1/3 reduction for your guilty plea at first given opportunity. Your sentence of 5 years is reduced by 1 year and 8 months leaving the balance of 3 years and 4 months.
9. 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 investigation and interviews.
  - (c) Having no intent of selling the substance.
  - (d) Your mother is dependent on you for assistance.

For these I deduct a further 16 months from your balance of 3 years and 4 months (40 months). That leaves you with exactly 2 years (24 months) to serve at the Correction Centre in Luganville. There will however be no suspension of sentence. Your sentence takes effect today.



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

11. Pursuant to section 18 of the Drugs Act Cap. 12, I hereby condemn all the plants, substances and/or materials held as exhibit by either the police or the prosecutions. I order their destruction within 48 hours from the date of this sentence. The Prosecutions will furnish the Court with the report of the destruction within 2 days of such destruction.

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

**BY THE COURT**

  
OLIVER A. SAKSAK

Judge

