

PUBLIC PROSECUTOR VS- FREDERICK JOHN KAVANAH

Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *Philip Toaliu for Public Prosecutor
Lorenzo Moli for Defendant*

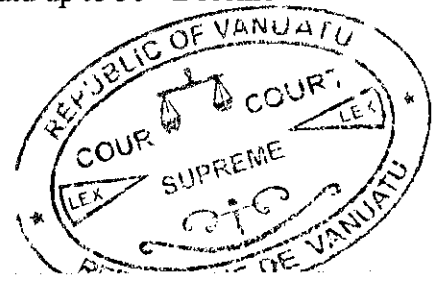
Date of Plea: *3rd July 2018*

Date of Sentence: *5th July 2018*

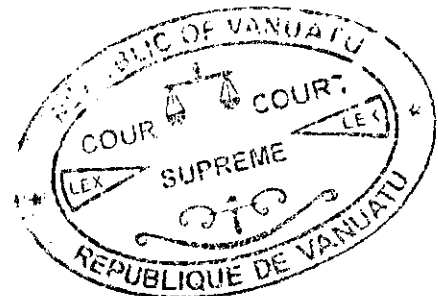
SENTENCE

1. Frederick John Kavanagh Moraweic Waymark Haor you are for sentence today for having pleaded guilty to one count of unlawful possession of cannabis drugs contrary to section 2 (62) of the Dangerous Drugs Act [CAP. 12].
2. This offence carries a maximum of 20 years imprisonment or VT 100 million in fine. This high penalty indicates that possession, sale, supply or cultivation of cannabis is very serious in Vanuatu.
3. The facts of your offending are very simple. On 13th June 2018 you arrived here at Lamanu Bay with 44.47 grams of cannabis, when you disembarked from LC Tina 1. The substance was confiscated by Corporal Eric Kalfabun. These were tested by Corporal Atis Yosef and confirmed positive as cannabis. The net weight of the substance was 34.09 grams.

You have accepted these facts as correct.
4. In this jurisdiction the quantity of 34.09 grams would normally attract a term of imprisonment of 3 months and a community based sentence.
5. For you I have read your Same Day Report which indicates that you are here as a tourist. You have a visa allowing you to remain in Vanuatu up to 30th December 2018.



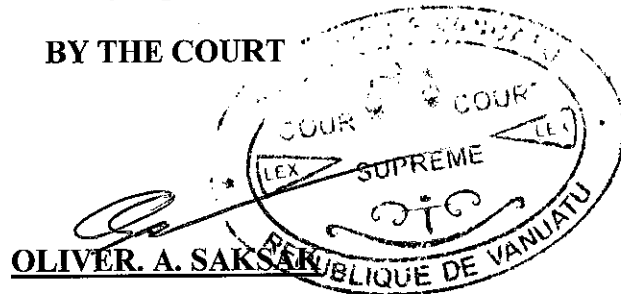
6. I consider therefore that the best sentencing option I can impose on you is a sentence of community work of 40 hours. I therefore convict you and sentence you to perform community service of 40 hours. You must perform these 40 hours of community service here on Epi before you leave the island. I order and authorise the Police to keep custody of your passport until you have done your 40 hours community work. You are to report to the Probation Officer immediately after this sentence to discuss your sentence. The police and chief Willie Graham will assist the Probation Officer in identifying the types of community you are to perform. This sentence is imposed under section 58N of the Penal Code Act.
7. The Court appreciates your remorse and public apology made to and in this Court today. But to accept the apology and not impose a sentence on you, the Court would be failing in its duty to impose a sentence which not only serves as a deterrence to you and others who possess, sell, supply or cultivate cannabis or marijuana plants in Vanuatu. The Court also has a duty to impose a sentence that marks the seriousness of this offence, the public disapproval of your action, the protection of the society and adequate punishment to you as the offender.
8. I know you may question why you have to be punished in this way when other boys or men who you know are using the substance are not. The difference is you were caught and charged. Those others have not been caught and so charged. But that should not be your concern and encouragement to you to get involved. You came here as a tourist and one would hope that you came to Epi to contribute something good to the people here and not to get involved with young boys and men to commit crimes or offences. I assure you that any other boys or men who deal with this substance if and when they are caught and charged, they will face the same due process of the law as you have.
9. I note from your Same Day Report that you are a first time offender. Because of this factor you will not go to prison today. I note also that you have pleaded guilty at the first available opportunity but these is a factor that is relevant only when a sentence of imprisonment is imposed.



10. That is the sentence of the Court. You may appeal against this sentence within 14 days if you are not happy with it.

DATED at Laman Bay, Epi this 5th day of July 2018

BY THE COURT



OLIVER. A. SAKSAR

Judge