

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal
Case No. 20/2290 SC/CRML

PUBLIC PROSECUTOR

V

DONNA JIMMY

Date of Sentence: 23rd October 2020
Before: Justice GA Andrée Wiltens
In Attendance: Public Prosecutor - Damien Boe
Defendant – Junior Garae

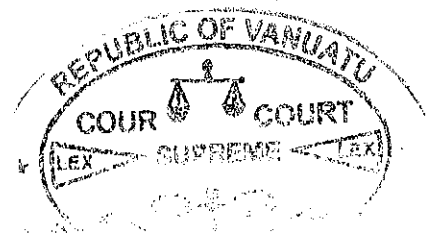
SENTENCE

A. Introduction

1. Mr Donna pleaded guilty to a charge cultivating cannabis.

B. Facts

2. In February 2015 the police received a complaint that Mr Donna had supplied her son with cannabis. The complainant suggested Mr Donna was cultivating cannabis.
3. The police investigated and found 20 cannabis plants in Mr Donna's property at Lontador area, Ambrym.
4. When questioned, in August 2017, Mr Donna accepted this offending and promised to not re-offend.
5. In September 2017 a Police Crime scene Officer tested the seized substances. It was confirmed to be cannabis and weighted 6.8 kilograms net.

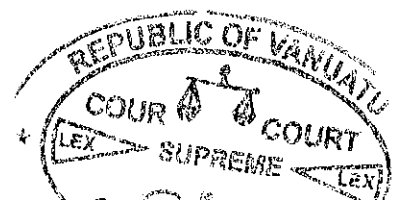


C. Sentence Start Point

6. The sentence start point is arrived at by looking at the maximum penalty available and then factoring in the aggravating and mitigating aspects of the offending.
7. The maximum sentence for the cultivation of cannabis is 20 years imprisonment and/or a fine up to VT 100 million.
8. It is a mitigating aspect of the offending that it occurred in 2015 – 5 years ago. There has been no offending since then.
9. The aggravating factors are the complaint that Mr Donna supplied some cannabis to a young male plus the large quantity that he was cultivating for more than will usually be required for self-consumption.
10. The start point I adopt for the offending is 30 months imprisonment, which reflects the 5 years delay in this matter being finalized.

D. Personal Factors

11. Mr Donna pleaded guilty at the first available opportunity. That is an acknowledgment of his wrong-doing and has saved Court time and expense. I reduce the sentence start point by 25% for that factor.
12. Mr Donna is 27, married with 3 young children. He is the family's sole bread-winner and provides for his family by the sale of his farming/gardening produce.
13. I treat Mr Donna as if he has no previous convictions despite what the PSR shows. He co-operated with the police and claims to be remorseful. He has good relations with his community.
14. Mr Donna has been incarcerated in respect of this matter for 108 days so far. The sentence start date will be back-dated to take that into account.



15. There has not been a custom reconciliation ceremony held.

16. For his personal factors I further reduce the sentence start point by 6 ½ months.

E. Sentences

17. The end sentence I impose is 16 months imprisonment. That is to commence from 15 July 2020.

18. I am prepared to suspend the entire sentence imposed for 2 years. That reflects the prompt plea, Mr Donna's remorse, and the delay inherent in this case being concluded 5 years after it occurred. It also takes into account Mr Donna's lack of previous convictions and his staying out of trouble after he was first apprehended.

19. Mr Donna needs to remain offence-free for 2 years to avoid this sentence being activated.

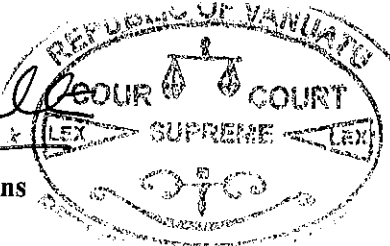
20. The drugs are to be destroyed.

21. Mr Donna has 14 days to appeal this sentence if he is dissatisfied with it.

DATED at Luganville this 23rd day of October, 2020

BY THE COURT

Andrée Wiltens
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Justice GA Andrée Wiltens

The seal of the Supreme Court of Vanuatu is circular. It features a central scale of justice. The words "REPUBLIC OF VANUATU" are written along the top inner edge of the circle. Below the scale, the words "SUPREME COURT" are written in a larger font, with "LEX" on either side. At the bottom of the seal, there is a decorative flourish.