

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

**Criminal**  
**Case No. 24/1660 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**MASSING SESEHANGLEM AND MICAH SINGSINGBU**

*Date of Plea:* 17 June 2024  
*Date of Sentence:* 12 September 2024  
*Before:* Justice M A MacKenzie  
*In Attendance:* Public Prosecutor – Mr L Young  
Defendant – Ms A Yeeon (holding papers for Ms B Taleo)

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**SENTENCE**

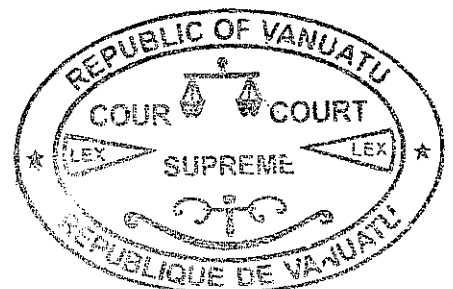
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**Introduction**

1. Mr Sesehanglem and Mr Singsingbu, you appear for sentence having pleaded guilty to one charge of cultivation of cannabis. The maximum penalty is 20 years imprisonment, or a fine not exceeding VT 100 million or both.

**The Facts**

2. On 15 December 2023, 13 cannabis plants were located in a garden on Ambrym. The plants were seized. Testing confirmed the plants were cannabis, with a total net weight of 1.10 kg.
3. You both admitted planting the cannabis plants, along with tobacco plants sometime in May 2023.



### Sentencing purposes/principles

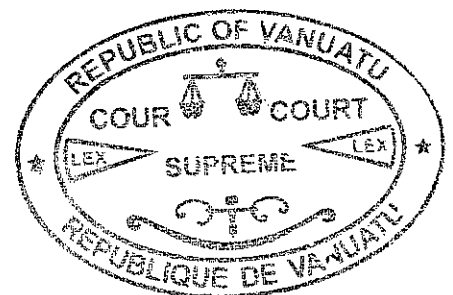
4. The sentence I impose must hold you accountable and must denounce and deter your conduct given that you were cultivating cannabis, which causes social harm. The sentence should ensure you take responsibility for your actions and help you to rehabilitate. It must also be generally consistent.

### Approach to sentence

5. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

### Starting point

6. The first step is to set a starting point, taking into account the aggravating factors and with reference to the maximum penalty.
7. The aggravating factors here are that you deliberately cultivated the cannabis, it was a joint enterprise and the cannabis plants had a net weight of 1.10 kg.
8. There are no mitigating features of the offending itself.
9. There is a guideline case for cannabis cultivation, *Wetul v Public Prosecutor* [2013] VUCA 26. Here, the cultivation involved 13 plants for personal use. There is nothing to suggest cultivation for a commercial purpose. While the net weight of the plants is moderately serious, the offending here falls within category 1 of *Wetul*. So, the usual sentencing outcome would be a fine or other community-based sentence, or a short custodial sentence.
10. Both counsel have filed written submissions as to the appropriate starting point. The recent sentencing decision of *Public Prosecutor v Akiro* [2024] VUSC 173 provides some assistance. Mr Akiro cultivated 6 plants with a net weight of .75 g. The offending was within Category 1 of *Wetul*. The starting point was 18 months imprisonment. The net weight of the cannabis and the total number of plants in the present case is higher than in *Akiro*, and so a slightly higher starting point is warranted.
11. I adopt a starting point of 2 years imprisonment.



## **Guilty plea and personal factors**

### *Guilty plea*

12. While you did plead guilty at an early stage, I agree that the discount for plea should be limited to 25 %. That is because the case against you both is overwhelming. This is consistent with *Public Prosecutor v Raptick* [2023] VUSC 226. That equates to a discount of 6 months from the starting point.

### *Mr Sesehanglem*

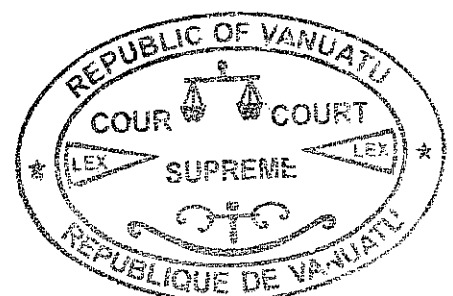
13. You are now aged 25 years, and are from Ambrym. You are a first offender with no previous convictions. You acknowledge that your actions were wrong and are remorseful. You have learnt your lesson and promise to avoid using cannabis. You were co operative with police.

### *Mr Singsingbu*

14. You are aged 22 years. You are a first offender with no previous convictions. You are currently working in Santo. You acknowledge that your actions were wrong and are remorseful. You have learnt your lesson and promise to stop using cannabis. You were cooperative with police. You also have a health issue as detailed in the pre sentence report. This arose from a fall from a coconut tree.
15. Given that you are both remorseful, first offenders and have good rehabilitative prospects, the sentence is reduced by 3 months, approximately 10 percent.
16. You were both remanded in custody for a period of one month from 22 December 2023 to 23 January 2024, an effective sentence of 2 months imprisonment. The sentence for each of you is reduced by 2 months to reflect that factor.

## **End Sentence**

17. The end sentence is 13 months imprisonment.
18. Taking into account the circumstances, the nature of the offending and your character, I have decided to suspend the sentence pursuant to s 57 of the Penal Code for you both. The net weight of the cannabis is moderately serious, but you are first offenders, you are remorseful, and accept responsibility. The sentence is to be suspended for 18 months. I consider that will meet the need for deterrence and denunciation. It will also hold you both accountable.



19. If you offend again in the next 18 months, you will need to serve the sentence of imprisonment in addition to any other penalty that may be imposed for the further offending.
20. The cannabis material is to be destroyed.
21. You have 14 days to appeal.

**DATED at Port Vila this 12th day of September 2024  
BY THE COURT**

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Justice M A MacKenzie

