

PUBLIC PROSECUTOR

V

BRIGHTLY KAIDING

Coram: *Hon. Chief Justice V. Lunabek*

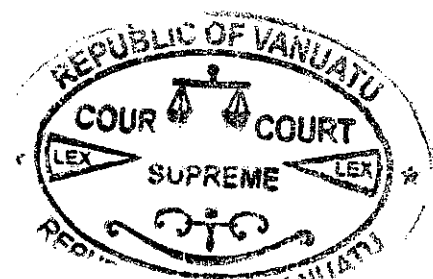
Counsel: *Mr J Aru for the State*
Ms B Taleo for the Defendant

Date of Pleas: *22 April 2024*

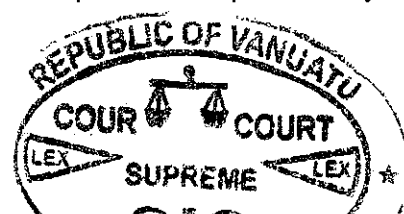
Date of Sentence: *23 May 2024*

SENTENCE

1. Mr Brightly Kaiding ("*Mr Brightly*"), you appear today for sentence having being pleaded guilty to one charge of cultivation of cannabis plants, contrary to Section 4(1) of the Dangerous Drugs Act [CAP. 12].
2. A formal complaint was made against you, Mr Brightly, for the offence of cultivation of cannabis plants which are prohibited by the laws of the Republic of Vanuatu.
3. The offending took place sometimes in November 2023 at Lorlow Village, the south west part of the island of Malekula. You were suspected by the police to have involved in cultivation of cannabis plants.
4. Your grandfather who is also a chief came forward to report you because he witnessed you cultivating 5 plants of cannabis plants. He reported the matter to the police. The police went to your garden with your grandfather and uprooted the plants and seized them.



5. The cannabis plants seized by the police were then sealed and kept in their custody for presumptive test. The net weight was 15.5 grams. The presumptive test result showed that the cannabis plants seized by the police were turned to positive of cannabis.
6. You were arrested, cautioned and interviewed by the police where you admitted the allegations made against you.
7. The offence of cultivation of cannabis plants carries a maximum sentence of a fine not exceeding 100 million vatu or a term of imprisonment not exceeding 20 years or to both such fine and imprisonment.
8. In this case, there is no mitigating factor to the offending, but the aggravating factor is that Mr Brightly, you have cultivated 5 cannabis plants with a net weight of 15.5 grams; and you have knowledge intention of the nature of the plant in your possession as opposed to being reckless in possessing and cultivating it.
9. This case lies under category 1 of the Wetul guidelines in *Wetul v Public Prosecutor* [2013] VUCA 26.
10. The sentence start point is 16 months imprisonment.
11. In mitigation, you are 21 years old. You are a first-time offender with no criminal history. You are unemployed. You live with your grandparents and make a living through farming, planting and selling food crops and kava. This is how you are able to help support your grandparents. You cooperated well with the police and made admissions in your cautioned interview. Your cooperation and early admissions have save the Republic's resources in bringing this matter to a finality. You have good relationship with your family and community.
12. I give you a reduction allowance of 3 months for your mitigating factors.
13. I give you also a reduction allowance of 33% for your early guilty plea.
14. The remaining balance of your sentence is 9 months imprisonment.
15. You were arrested on Malekula on 18 November 2023, held in custody then later transferred to Santo Correctional Services Centre and remanded on 22nd November 2023. You have already spent over 13 weeks in custody until released on bail on 19th February 2024. You have spent a total of 3 months and 2 days in pre-custodial period. This time shall be deducted in your sentence.
16. The new remaining balance of your sentence is 5 months and 28 days. Your end sentence is 5 months and 28 days imprisonment. This term of imprisonment is suspended for a period of 2 years.

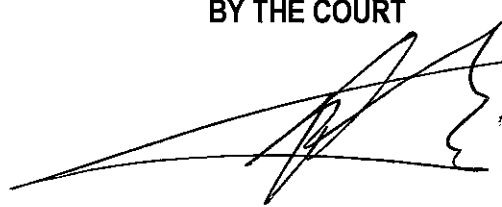


In addition, you are ordered to perform 60 hours of community work and 6 months supervision on the general standard conditions.

17. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts on the date of this sentence.

DATED at Luganville, Santo, this 23rd day of May, 2024.

BY THE COURT


Hon. Chief Justice Vincent LUNABEKE

