



**IN THE DISTRICT COURT OF NAURU
AT YAREN
CRIMINAL JURISDICTION**

Criminal Case No. 13 of 2024

BETWEEN:

THE REPUBLIC OF NAURU

PROSECUTION

AND:

RANDY DOGUAPE

1st DEFENDANT

TAGNER RATABWIY

2nd DEFENDANT

TJ

3rd DEFENDANT

BEFORE: Resident Magistrate Mr. Vinay Sharma

DATE OF HEARING: 29 and 31 May 2024

DATE OF RULING: 03 June 2024

APPEARANCE:

PROSECUTION: MA Suifa'asia

DEFENDANTS: C Adeang on 29 May 2024 and S Hazelman on 31 May 2024

SENTENCE

BACKGROUND

1. The defendants are to be sentenced for the offence of being found in unlawful possession of an illicit drug, namely, cannabis in contravention of section 6(a) of the *Illicit Drugs Control Act 2004* ("the Act").
2. On 29 May 2024 the defendants pleaded guilty to one count of being found in unlawful possession of 1 gram of cannabis.
3. On 28 May 2024 the Republic filed the Summary of Facts. The contents of the Summary of Facts were read out on 29 May 2024, and it was agreed to by the defendants, with minor amendments which are reflected on the filed Summary of Facts.
4. On 29 May 2024 the Republic filed its Sentencing Submissions.
5. On 29 May 2024 the defendants' counsel also filed the following documents:
 1. Mitigation and Sentencing Submission for the 1st Defendant;
 2. Mitigation and Sentencing Submission for the 2nd Defendant; and
 3. Mitigation and Sentencing Submission for the 3rd Defendant.
6. On 29 May 2024, upon the filing of the sentencing and mitigation submissions the court heard all the parties on their submissions. The matter was adjourned to 31 May 2024

at 2.30pm for sentencing.

7. On 31 May 2024 the court advised the parties that the defendants would be sentenced after their means to pay a fine is ascertained. Thereafter, the parties were heard in relation to the means of the defendants because all the parties were in consensus that a fine should be imposed on the defendants together with any other available sentences appropriate in the circumstances. The matter was adjourned to 3 June 2024 at 2.30pm for sentencing.
8. The court has considered the sentencing and mitigation submissions and proceeds with the sentencing.

FACTS SURROUNDING THE CIRCUMSTANCES OF THE OFFENCE

9. The following are the facts surrounding the offence as provided in the Summary of Facts:
 1. The 1st Defendant is the principal offender and the other defendants were aiding and abetting the offending.
 2. On 16 April 2024, during the evening, the defendants were located at the stairs at the back of the RON Hospital, that leads to the Married Quarters houses.
 3. The 1st Defendant took out two white items that looked like cigarette and passed it to the 2nd Defendant who was about to smoke it.
 4. The 2nd and the 3rd Defendants were in the company of the 1st Defendant when the 1st Defendant was preparing the substance for smoking.
 5. The Police Protective Services officer Ms Lovena Olsson and Mr Makenia Tom reported the suspicious activity of the defendants. Shortly, the police arrived on the scene and intercepted the defendants.
 6. The police discovered one (1) paper roll that contained green dried herbs, and a (1) tablespoon of the same herbs in an empty cut soft drink can in front of where the defendants were sitting. The substance was sent for testing.
 7. The substances were tested by Sergeant Danlobendan Botelanga using the Nikkit-S KN reagent system. The indicator gave a positive reading that the substances were in fact cannabis.

PERSONAL CIRCUMSTANCES OF THE DEFENDANTS

10. The following are the relevant personal circumstances of the defendant which is distilled from the document filed by the defendants in relation to the sentencing and the

Pre-sentence Report:

1st Defendant

1. At the time of the offence the 1st defendant was 27 years old. He is single and lives with his mother and two sisters.
2. The 1st defendant supports his mother and two sisters who are disable and are living with mobility complications.
3. The 1st defendant dropped out from school.
4. There is a dispute in relation to employment. The Pre-sentence Report for the 1st Defendant provides that the 1st Defendant was employed as a security guard. However, during the hearing on the means of the 1st Defendant he stated that he was unemployed. I accept the fact as provided in the Pre-sentence Report.
5. In Republic v Doguape [2024] NRCA 3; Criminal Appeal 05 of 2021 (3 May 2024) the 1st Defendant was convicted for being found in a certain place without lawful authority or excuse.
6. The 1st Defendant is a member of the Shalosh Church situated at Aiwo District.

2nd Defendant

- i. At the time of the offence the 2nd defendant was 38 years old. He is single and resides with his mother and siblings.
- ii. The Pre-sentence Report of the 2nd defendant indicates that he had a serious head injury when he was young and this has affected him. Further, up until now the 2nd defendant's mother supports him.
- iii. The 2nd defendant is unemployed.
- iv. The 2nd defendant did not complete his education. He does not go to church and he does not participate in sport activities.
- v. The 2nd defendant is first time offender.

3rd Defendant

- i. At the time of the offence the 3rd defendant was 14 years old. He is a juvenile and lives with his parents and 4 siblings.
- vi. The 3rd defendant attends Nauru Secondary School. He was suspended from school after being caught smoking.
- vii. The 3rd defendant used to go fishing and do casual jobs to help the family

financially.

AGGRAVATING FACTORS

11. The following are the aggravating factors in this matter:

1st Defendant

1. The 1st defendant was found in possession of cannabis in a public area.
2. The 1st defendant together with the 2nd defendant were in the process of smoking cannabis with the 3rd defendant who is a juvenile. The 1st defendant is an adult and should be a role model to juveniles. Instead, he was encouraging and/or allowing the juvenile to smoke cannabis with them.

2nd Defendant

- i. The 2nd defendant was found in the company of the 1st defendant aiding and abetting in the possession of cannabis in a public area.
- ii. The 2nd defendant together with the 2nd defendant were in the process of smoking cannabis with the 3rd defendant who is a juvenile. The 2nd defendant is an adult and should be a role model to juveniles. Instead, he was encouraging and/or allowing the juvenile to smoke cannabis with them.

3rd Defendant

- iii. The 2nd Defendant was found in the company of the 1st defendant aiding and abetting in the possession of cannabis in a public area.

MITIGATING FACTORS

12. The court finds the following mitigating factors in favor of the defendants:

1st Defendant

1. As per the Pre-sentencing Report for the 1st Defendant, he has demonstrated contrition which indicates that there is a high chance that he will rehabilitate.
2. The 1st defendant is remorseful.
3. The 1st defendant's mother and two sisters, who are disabled, rely on him for support.
4. The 1st defendant pleaded guilty at the earliest possible time.

2nd Defendant

- i. As per the Pre-sentencing Report for the 2nd Defendant, he has demonstrated contrition which indicates that there is a high chance that he will rehabilitate.

- ii. The 2nd defendant is remorseful.
- iii. The 2nd defendant suffers from mental impairment. However, there is no medical evidence to support this.
- iv. The 2nd defendant pleaded guilty at the earliest possible time.
- v. The 2nd defendant does not have any prior convictions.

3rd Defendant

- i. As per the Pre-sentencing Report for the 3rd Defendant, he has demonstrated contrition which indicates that there is a high chance that he will rehabilitate.
- ii. The 3rd defendant is remorseful.
- iii. The 3rd defendant is a juvenile and has diminished mental capacity and moral culpability in relation to the offending.
- iv. The 3rd defendant pleaded guilty at the earlier possible time.
- v. The 3rd defendant does not have any prior convictions.

OBJECTIVE SERIOUSNESS OF THE OFFENDING

- 12. The defendants plead guilty to being found in unlawful possession of an illicit drug, namely, cannabis in contravention of Section 6(a) of the Act. The 1st defendant was the principal offender in possession of 1 gram cannabis. The 2nd and 3rd defendants were in the company of the 1st defendant aiding and abetting him.
- 13. The maximum penalty under Section 6(a) of the Act is a term of imprisonment for 10 years and a fine not exceeding \$50,000.
- 14. In *The Republic of Nauru v Perndergast*¹ the District Court made very useful observations with regard to the classification of illicit drugs and the seriousness of the different types of offending under section 6(a) of the Act. I adopt the same method of classification and find that cannabis is in the class of illicit drugs which poses the least danger to persons taking them. It also falls into the category of illicit drugs which would attract the least severe penalties. Further, “possession” is also the least serious act prescribed under Section 6(a).
- 15. The defendants were in possession of small amounts of cannabis. In light of their personal circumstances, aggravating and mitigating circumstances, and their moral

¹ [2018] NRDC 11; Criminal Case 85 of 2017 (27 September 2018) at [19]-[29]

culpability, the court finds that the objective seriousness of the current offending is at the lowest end of the level of seriousness.

RANGE OF SENTENCES

16. Section 277 of the *Crimes Act 2016* provides for the types of sentences that this court can impose on a person found guilty of an offence:

277 Kinds of sentences

Where a court finds a person guilty of an offence, it may, subject to any particular provision relating to the offence and subject to this Act, do any of the following:

- (a) record a conviction and order that the offender serve a term of imprisonment;*
- (b) with or without recording a conviction, order the offender to pay a fine;*
- (c) record a conviction and order the discharge of the offender;*
- (d) without recording a conviction, order the dismissal of the charge for the offence; or*
- (e) impose any other sentence or make any order that is authorised by this or any other written law of Nauru.*

17. Prior to *R v Beadan & Another*², the sentencing range for offences involving possession of cannabis was a fine of \$500 with a non-conviction to a fine of \$1000 with a non-conviction. The cases forming this sentencing range were discussed in *R v Beadan & Another, supra* where this court indicated that there was a gradual increase in the sentences issued for offences involving possession of cannabis to address the growing prevalence of this offence.
18. The sentence in *R v Beadan & Another, supra* is the current baseline of the yardstick that this court may refer to when sentencing individuals for offences involving possession of cannabis.

SENTENCING APPROACH AND PRINCIPLES

19. Section 278 of the *Crimes Act 2016* provides the following purposes for sentencing an offender:

278 Purposes of sentencing

The purposes for which a court may impose a sentence on an offender

² [2024] NRDC 3

are as follows:

- (a) to ensure that the offender is adequately punished for the offence;
- (b) to prevent crime by deterring the offender and other people from committing similar offences;
- (c) to protect the community from the offender;
- (d) to promote the rehabilitation of the offender;
- (e) to make the offender accountable for the offender's actions;
- (f) to denounce the conduct of the offender; and
- (g) to recognise the harm done to the victim and the community.

20. Section 279 of the **Crimes Act 2016** outlines the considerations that the court must take into account when sentencing a person found guilty of an offence. The considerations under this section stems from Section 278 of the **Crimes Act 2016**.
21. Section 280 of the **Crimes Act 2016** provides the sentencing considerations that must be taken into account when deciding whether a term of imprisonment is appropriate.
22. Section 281 of the **Crimes Act 2016** provides the considerations that the court must take into consideration as a far possible when deciding to impose a fine on a person found guilty of an offence.
23. Hunt CJ at CL in the Court of Criminal Appeal of NSW in **R v MacDonell**³ stated that:

The sentencing procedures in the criminal justice system depend upon sentencers making findings as to what the relevant facts are, accepting the principles of law laid down by the Legislature and by the courts, and exercising a discretion as to what sentence should be imposed by applying those principles to the facts found.

24. Section 278 of the **Crimes Act 2016** adopts the common law principles of sentencing as was found in **Veen v The Queen (No 2)**⁴ with reference to a similar sentencing provision in Australia. In that case Mason CJ, Brennan, Dawson and Toohey JJ in their judgment in the High Court of Australia made useful observations with regard to the interaction between the different sentencing purposes:

... sentencing is not a purely logical exercise, and the troublesome nature of the sentencing discretion arises in large measure from unavoidable difficulty in giving weight to each of the purposes of punishment. The purposes of criminal punishment are various: protection of society, deterrence of the offender and of others who might be tempted to offend, retribution and reform. The purposes overlap and none of them can be considered in isolation from the others when

³ (unrep, 8/12/95, NSWCCA) at [1]

⁴ (1988) 164 CLR 465

*determining what is an appropriate sentence in a particular case. They are guideposts to the appropriate sentence but sometimes they point in different directions.*⁵

25. Further, the High Court of Australia in *Muldrock v The Queen*⁶ reconfirmed the common law heritage of the relevant provision:

The purposes there stated [in s 3A] are the familiar, overlapping and, at times, conflicting, purposes of criminal punishment under the common law [Veen v The Queen (No 2) at 476–477]. There is no attempt to rank them in order of priority and nothing in the Sentencing Act to indicate that the court is to depart from the principles explained in Veen v The Queen (No 2) [at 476] in applying them. [Relevant footnote references included in square brackets.]

26. Having referred to the cases above on the application of the purposes for sentencing, the court emphasizes on how the principle of proportionality as a fundamental sentencing principle guides and binds the balancing exercise of a sentencer with regard to the various purposes of sentencing referred to in Section 278(b)(c)(d)(e)(f) & (g) of the *Crimes Act 2016*. In this regard Howie J, with whom Grove and Barr JJ agreed, made the following observations in the Court of Criminal Appeal of NSW in *R v Scott*⁷:

There is a fundamental and immutable principle of sentencing that the sentence imposed must ultimately reflect the objective seriousness of the offence committed and there must be a reasonable proportionality between the sentence passed and the circumstances of the crime committed. This principle arose under the common law: R v Geddes (1936) SR (NSW) 554 and R v Dodd (1991) 57 A Crim R 349. It now finds statutory expression in the acknowledgment in s 3A of the Crimes (Sentencing Procedure) Act that one of the purposes of punishment is “to ensure that an offender is adequately punished”. The section also recognises that a further purpose of punishment is “to denounce the conduct of the offender”.

27. An example of how the principle of proportionality operates is also found in *Veen v The Queen (No 2)*, *supra* where the High Court of Australia held that a sentence should not be increased merely to protect the community from further offending by the offender if the result of which would be a disproportionate sentence. In that case Mason CJ, Brennan, Dawson and Toohey JJ made the following useful observations at [473]:

It is one thing to say that the principle of proportionality precludes the imposition of a sentence extended beyond what is appropriate to the crime merely to protect society; it is another thing to say that the protection of society

⁵ *Veen v The Queen (No 2)* (1988) 164 CLR 465

⁶ (2011) 244 CLR 120 at [20]

⁷ [2005] NSWCCA 152 at [15]

is not a material factor in fixing an appropriate sentence. The distinction in principle is clear between an extension merely by way of preventive detention, which is impermissible, and an exercise of the sentencing discretion having regard to the protection of society among other factors, which is permissible.

28. Lamer CJ in the Canadian Supreme Court in *The Queen v CAM*⁸ found that retribution in sentencing represents:

...an objective, reasoned and measured determination of an appropriate punishment which properly reflects the moral culpability of the offender, having regard to the intentional risk-taking of the offender, the consequential harm caused by the offender, and the normative character of the offender's conduct.

29. Howie J in the Court of Criminal Appeal of NSW in *R v Zamagias*⁹ made the following useful observations on the interaction of the various sentencing purposes and how the advancement of one purpose may achieve the goal of another:

It is perhaps trite to observe that, although the purpose of punishment is the protection of the community, that purpose can be achieved in an appropriate case by a sentence designed to assist in the rehabilitation of the offender at the expense of deterrence, retribution and denunciation...

30. In light of the above, the court finds that all of the purposes of sentencing would need to be considered and balanced against each other to reach a sentence which conforms with the fundamental sentencing principle of proportionality. No one purpose has priority over the other. The amount of weight that would be given to each purpose would depend on the circumstances of the offending, mitigating and aggravating factors, and the personal circumstances of the offender.

CONVICTED AS CHARGED?

31. Section 190(4) of the Criminal Procedure Act 1972 provides as follows:

Where the Court has recorded a finding under this Section that an accused is guilty of the offence charged, it shall, after hearing him or her, or his or her legal practitioner if any, as to any mitigating circumstances and any evidence thereof which may be advanced, either convict him or her and pass sentence on, or make an order against, him or her in accordance with the law or, if authorised by any written law to do so, discharge him or her without proceeding to conviction.

⁸ [1996] 1 SCR 500 at [80]

⁹[2002] NSWCCA 17 at [32]

32. The defendants pleaded guilty to the offence of being found in unlawful possession of 1 gram of cannabis in contravention of section 6(a) of the Act, and therefore, are found guilty as charged.
33. In the current circumstances, there are no facts that would justify discharging the 1st and 2nd defendants without proceeding to conviction. Therefore, the 1st and 2nd defendants are convicted as charged.
34. The counsel for the 3rd defendant submitted that since the 3rd defendant is a juvenile this court may discharge the 3rd defendant without proceeding to conviction. The court finds that that may be an option available to the court, however, in the current circumstances it would be inappropriate to discharge the 3rd defendant without proceeding to conviction. This court makes this finding based on the fact that there is a rise in cases involving juveniles in possession of cannabis. Discharging the 3rd defendant would not act as a deterrent against juveniles in similar cases. In light of this, the court convicts the 3rd defendant as charged.
35. The court would consider whether to enter a record of conviction or not later in this sentence ruling.

CONSIDERATION

36. Having considered the various sentencing principles, the court will now consider the applicable factors in its sentencing, and apply them to the sentencing principles. In doing so the court has taken account of Section 279 of the *Crimes Act 2016*. Further, the court has also taken into account the time spent in remand custody by the defendants.
37. The court takes into consideration that the offending did not cause any injury or harm. No violence was involved.

1st and 2nd defendants

38. The court condemns the conduct of the 1st and 2nd defendants for being in possession of cannabis for the purpose of smoking it with a juvenile. The 1st and 2nd defendants are adults and should not encourage or allow juveniles to smoke cannabis. Adults who encourage or allow juveniles to smoke cannabis should expect harsher sentences from the courts.
39. The court has considered Section 280 of the *Crimes Act 2016*. In light of the objective seriousness of the offence, the court finds that a term of imprisonment would not be an appropriate sentence for the 2nd defendant. Further, despite the 1st defendant having a previous conviction, the objective seriousness of the offence also warrants a non-custodial sentence because a term of imprisonment maybe a disproportionate sentence.

40. The court has considered Section 281 of the *Crimes Act 2016*. The means of the 1st and 2nd defendants were ascertained. Further, the court has considered the burden that would be placed on the defendant if an excessive amount of fine is imposed on them. The court also notes that other factors may also be taken into account when determining the means of a person, that is, payment by a third party: see *St Clare v. Wilson* (1994) S.L.T. 564.
41. During the sentence hearing the counsel for the 1st and 2nd defendants indicated that their families would pay the fine imposed on them. This is a relevant factor for the court's consideration.
42. The 1st defendant has a prior criminal record. A prior criminal record may require more weight be given to retribution, personal deterrence or protection of the community, as such criminal record may manifest a continuing attitude of disobedience: See *Veen v The Queen (No 2)*, *supra*. In light of this, there is a need for specific or personal deterrence in relation to the 1st defendant. There is no need for specific or personal deterrence in relation to the 2nd defendant.

3rd defendant

43. The court has considered Section 280 of the *Crimes Act 2016*. In light of the objective seriousness of the offence, the court finds that a term of imprisonment would not be an appropriate sentence for the 3rd defendant.
44. The court has considered Section 281 of the *Crimes Act 2016*. Further, the court has considered the burden that would be placed on the 3rd defendant if an excessive amount of fine is imposed on him. The court also notes that other factors may also be taken into account when determining the means of a person, that is, payment by a third party: see *St Clare v. Wilson* (1994) S.L.T. 564.
45. During the sentence hearing the counsel for the 3rd defendant indicated that the juvenile's parents would pay the fine imposed on them. This is a relevant factor for the court's consideration.
46. The 3rd defendant does not have any prior criminal record. There is no need for specific or personal deterrence in relation to the 3rd defendant.

SENTENCE

1st and 2nd defendants

47. Upon careful consideration of the sentencing principles, and the relevant factors in relation to the nature of the offending, the court finds that the appropriate sentence for the 1st and 2nd defendants is an order for a fine, community service and probation.

48. In *R v Beadan & Another, supra* this court imposed a fine of \$1000 where the defendants were in possession of 1.4 grams and 1.1 grams of cannabis. In the current circumstances a higher fine would be imposed on the 1st and 2nd defendant to reflect the court's condemnation of their conduct of encouraging and/or allowing a juvenile to smoke cannabis with them. The appropriate fine in the current circumstances would be \$1500 against the 1st and 2nd defendants.
49. Section 22 of the *Criminal Justice Act 1999* allows the court to make an order for community service against a person above the age of 13 who has been found guilty of an offence punishable by imprisonment.
50. In *R v Beadan & Another, supra* the defendants in that matter were ordered to do community services for 3 months. For the 2nd defendant, this would be an appropriate duration for community service. For the 1st defendant the court will increase the duration of the community service to 4 months to factor in specific or personal deterrence. This court makes community service orders against the 1st and 2nd defendants accordingly.
51. Section 25 of the *Criminal Justice Act 1999* provides for the content of a community service order. The court has considered Section 25 and makes orders accordingly.
52. Section 7(1), 8(1) and 11(1) of the *Criminal Justice Act 1999* are relevant in relation to a probation order that would be made in the current circumstances. Section 7(1) of the Criminal Justice Act 1999 provides that "where a person is **convicted** of an offence punishable by imprisonment the court may, instead of sentencing him or her to imprisonment, make a probation order releasing the person on probation for a period specified in the order, being a period of not less than 1 year nor more than 3 years".
53. The term convicted has been interpreted by the courts flexibly. In *HA & SB v The Director of Public Prosecutions*¹⁰ the Supreme Court of New South Wales made the followings observation at [9] of its judgment with regard to the interpretation of the term convict:

9 The words "convict" and "conviction" are not words of constant meaning with universal application. In Maxwell v The Queen (1996) 184 CLR 501 at 507, Dawson and McHugh JJ said:

"The question of what amounts to a conviction admits of no single, comprehensive answer. Indeed, the answer to the question rather depends upon the context in which it is asked. On the one hand, a verdict of guilty by a jury or a plea of guilty upon arraignment has been said to amount to a conviction. On the other hand, it has been said that there can be no conviction until there is a judgment of the court, ordinarily in the form of a sentence, following upon the verdict or plea."

¹⁰ [2003] NSWSC 347

and reference was made to *Burgess v Boetefeur* (1844) 7 Man & G 481 at 504, 135 ER 193 at 202, *R v Tonks* [1963] VR 121 at 127-8, *R v Jerome and McMahon* [1964] Qd R 595 at 604 and *Richards v The Queen* (1993) AC 217 at 226-7.

54. Section 65 of the *Interpretation Act 2011* defines “conviction” as “a finding of guilt by a court, whether or not the conviction is recorded”. In the current context, the term “convicted” must be interpreted to mean “a finding of guilt by a court, whether or not conviction is recorded”. This interpretation was adopted in the Supreme Court of Nauru in *Republic v BR*, Supreme Court Criminal Case No. 3 of 2024. This court is bound by the Supreme Court’s interpretation in that matter.
55. In *R v Beadan & Another, supra* the defendants were made subject to a probation order which was to commence after the community service order expired. In this matter the court also makes a probation order against the 1st and 2nd defendants for a duration of 1 year which will commence after the completion of the community service order.
56. Following this, I find that the 1st and 2nd defendants can no longer to be kept in remand custody and are to be released with immediate effect.

3rd Defendant

57. Upon careful consideration of the sentencing principles, and the relevant factors in relation to the nature of the offending, the court finds that the appropriate sentence for the 3rd defendant is a fine and a community service order.
58. The court has taken into account that the 3rd defendant is a juvenile. He is 15 years old now and was 14 years old at the time of the offence. In the circumstances, a lower amount of fine would be imposed against the 3rd defendant and the amount shall be \$200.
59. The parents of the 3rd defendant shall enter into a bond for the payment of the fine before the 3rd defendant is released.
60. The juvenile shall carry out 1 month of community service from 4 June 2024.

RECORD OF CONVICTION

1st and 2nd defendants

61. The court has considered Section 277(a) & (b) of the *Crimes Act 2016*. The 1st and 2nd defendants have not raised any grounds or facts upon which this court is able to exercise its discretion not to enter a record of conviction against the 1st and 2nd defendants. Therefore, this court enters a record of conviction against the 1st and 2nd defendants accordingly.

3rd defendant

62. The counsel for the 3rd defendant submitted that the court ought not to record a conviction against the juvenile and relied on *Republic v BR, supra*. This court concedes with this submission because the sentencing considerations in relation to recording of convictions against juveniles in *Republic v BR, supra* apply to the current circumstances. Therefore, a conviction shall not be recorded against the 3rd defendant.

ORDERS

63. The following are orders of this court:

1st defendant

1. That a conviction is recorded against the 1st defendant, namely, Randy Doguape.
2. That the 1st defendant is to pay a fine of \$1500 within 28 days from 3 June 2024. If the 1st defendant fails to pay the fine within 28 days then he shall be committed to a term of imprisonment for 6 months.
3. That a community service order is made against the 1st defendant in the following terms:
 - i. The 1st defendant is to carry out two hours of community service every Saturday on a weekly basis commencing from 8 June 2024 for a period of 4 months.
 - ii. The 1st defendant is to report to the Chief Probation Officer on 5 June 2024 at 11 am.
 - iii. The Chief Probation Officer shall give necessary directions on the community service to be undertaken.
4. That a probation order is made against the 1st defendant for a period of 1 year effective from the date of the expiration of the community service order. The conditions of the probation order are as follows:
 - iv. The 1st defendant shall report in person to the Chief Probation Officer under whose supervision he is placed at a time provided by the Chief Probation Officer after the expiry of the community service order, and shall further report as and when he is required to do so by the Chief Probation Officer;
 - v. The 1st defendant shall reside at his current place of residence and give to the Chief Probation Officer reasonable notice of his intention to move from his current place of residence;
 - vi. The 1st defendant shall not reside at an address that is not approved

by the Chief Probation Officer;

- vii. The 1st defendant shall not continue in an employment, or continue to engage in an occupation that is not approved by the Chief Probation Officer;
 - viii. The 1st defendant shall not associate with a specified person, or with persons of a specified class, with whom the Chief Probation Officer has, in writing, warned him not to associate; and
 - ix. The 1st defendant shall keep the peace, be of good behaviour and commit no offence against the law.
5. That the 1st defendant is to be released from remand custody with immediate effect.
6. That the parties are at liberty to appeal the 1st defendant's sentence within 21 days from 3 June 2024.

2nd defendant

7. That a conviction is recorded against the 2nd defendant, namely, Tagner Ratabwi.
8. That the 2nd defendant is to pay a fine of \$1500 within 28 days from 3 June 2024. If the 2nd defendant fails to pay the fine within 28 days then he shall be committed to a term of imprisonment for 6 months
9. That a community service order is made against the 2nd defendant in the following terms:
- i. The 2nd defendant is to carry out two hours of community service every Saturday on a weekly basis commencing from 8 June 2024 for a period of 3 months.
 - ii. The 2nd defendant is to report to the Chief Probation Officer on 5 June 2024 at 11am.
 - iii. The Chief Probation Officer shall give necessary directions on the community service to be undertaken.
10. That a probation order is made against the 2nd defendant for a period of 1 year effective from the date of the expiration of the community service order. The conditions of the probation order are as follows:
- i. The 2nd defendant shall report in person to the Chief Probation Officer under whose supervision he is placed at a time provided by

the Chief Probation Officer after the expiry of the community service order, and shall further report as and when he is required to do so by the Chief Probation Officer;

- ii. The 2nd defendant shall reside at his current place of residence and give to the Chief Probation Officer reasonable notice of his intention to move from his current place of residence;
 - iii. The 2nd defendant shall not reside at an address that is not approved by the Chief Probation Officer;
 - iv. The 2nd defendant shall not continue in an employment, or continue to engage in an occupation that is not approved by the Chief Probation Officer;
 - v. The 2nd defendant shall not associate with a specified person, or with persons of a specified class, with whom the Chief Probation Officer has, in writing, warned him not to associate; and
 - vi. The 2nd defendant shall keep the peace, be of good behaviour and commit no offence against the law.
10. That the 2nd defendant is to be released from remand custody with immediate effect.
 11. That the parties are at liberty to appeal the 2nd defendant's sentence within 21 days from 3 June 2024.

3rd defendant

12. That a conviction is not recorded against the 3rd defendant.
13. That the 3rd defendant is to pay a fine of \$200 within 28 days from 3 June 2024.
14. That a community service order is made against the 3rd defendant in the following terms:
 - i. The 3rd defendant is to carry out two hours of community service every Saturday on a weekly basis commencing from 8 June 2024 for a period of 1 month.
 - ii. The 3rd defendant is to report to the Chief Probation Officer on 5 June 2024 at 11am.
 - iii. The Chief Probation Officer shall give necessary directions on the community service to be undertaken.

- 16 That the parents of the 3rd defendant are to enter into a bond for the payment of the fine imposed against him.
- 17 That the 3rd defendant is to be released from remand custody with immediate effect, subject to the condition that the parents of the 3rd defendant enter into a bond for the payment of the fine imposed against the 3rd defendant.
- 18 That the parties are at liberty to appeal the 3rd defendant's sentence within 21 days from 3 June 2024.

Dated this 3 day of June 2024.

