

**IN THE HIGH COURT OF MALAWI  
PRINCIPAL REGISTRY  
CONFIRMATION CASE NO. 797 OF 1997**

**THE REPUBLIC  
VERSUS  
MASTER ALISON**

**In the Second Grade Magistrate Court sitting at Mchinji  
Criminal case No. 254 of 1997**

**CORAM: MWAUNGULU, J**

**Kapanda, Senior State Advocate, for the State  
Defendant, present, unrepresented  
Soka Banda, the official interpreter  
Marsen, the recording officer**

**Mwaungulu, J**

**JUDGMENT**

The Honourable Mrs. Justice Msosa set this case down to consider the severity of the sentence against the defendant. The Second Grade Magistrate convicted the defendant, Master Alison, of the offence of cultivating Indian hemp. Cultivation of Indian hemp is an offence under regulation 6 as read with section 19 of the Dangerous Drugs Act. The Court below sentenced the defendant to eight years' imprisonments with hard labour. The Honourable judge thought, correctly in my view, that the sentence was manifestly excessive.

The defendant, just as he admitted the matter before the police, pleaded guilty when he appeared before the Second Grade Magistrate Court at Mchinji. When the police called at his village, they were acting on information. They went straight to the garden where the defendant grew the plants. They uprooted the plants and took them to a plant pathologist at Chitedze Agricultural Research Station. The report from there indicates that the weight was 7 Kg.

Cultivation of Indian hemp is considered more serious than possession. In relation to possession

of Indian hemp, the Honourable the Chief Justice has laid a guideline in Republic v. Wilson (1994) C.C. No. 1236:

“I would, therefore, suggest that quantities of dangerous drug from 1 to 50 Kgs should attract a sentence not exceeding 5 years imprisonment with hard labour and quantities from 50 Kgs to 250 Kgs should attract a sentence not exceeding 8 years and quantities over 250 Kgs should attract 9 years and over.”

Although this guideline relates to possession, sentences for possession are not supposed to be markedly different. The sentence of eight years imprisonment with hard labour is set aside. The defendant will serve two years imprisonment with hard labour.

Made in open court this 13th Day of December 1997

**D.F. Mwaungulu**

**JUDGE**