

**Court of Magistrates (Malta)
As a Court of Criminal Judicature**

Magistrate Dr Josette Demicoli LL.D

**The Police
(Inspector Jeanne Farrugia)**

Vs

**Omissis
Jordan James Morley**

Today 20th April, 2016

The Court,

Having seen the charges brought against Omissis and the accused Jordan James Morley of 23 years, son of Richard and Sharon nee' Turner, born in Liverpool, UK on the 23rd May 1994, who resides at Kingsgate House 8B Triq il-Hriereb, Msida, holder of British and holder of British passport number 530033066 and Omissis:

With having on the 8th July 2015 at about 00:30hrs in Pieta':-

1. Without the intent to kill or to put the life of Pelayo Rodriguez Gonzalez holder of Maltese identity card number 0133942A in manifest jeopardy, caused him injuries of grievous nature,
2. Wilfully disturbed the public good order or the public peace;
3. In a public place or place open to the public, were found drunk and incapable of taking care of themselves;

Omissis alone in the same circumstances, for:-

1. Caused Alvaro Reyes Herrero holder of Maltese identity card number 0129395A injuries of slight nature;
2. Committed violent indecent assault on the person of Maria Gonzalez Criado holder of Maltese identity card number 0129260A;
3. Committed an offence against decency or morals of Maria Gonzalez Criado holder of Maltese identity card number 0129260A by an act committed in a public place.

This Court is requested, if deemed fit, to provide for the safety of the above mentioned Maria Gonzalez Criado and Pelayo Rodriguez and to apply the provisions of article 412C of the Criminal Code and to issue a protection order under those conditions deemed fit by this Court.

Having seen the Attorney General's consent so that this case be tried summarily and having heard the accused declare that he has no objection that the case be so tried.

Having heard witnesses.

Having seen all the acts and documents exhibited;

Having heard the prosecution and defence counsel make their submissions.

Considers:

The accused is charged of having caused an injury of a grievous nature on Pelayo Rodriguez, of having disturbed the public peace and of being drunk in a public place.

It results from the acts of this case that a group of Spanish nationals namely Maria Gonzalez Criado and her twin sister Claudia, Pelayo Rodriguez, Alvaro Reyes Herrero, Silvia Garzia Perez and a Maltese national Sarah Burnell were on their way to Msida from Floriana on foot after attending the Isle of MTV Concert in Floriana.

The accused, a British national, was together with a Serbian national (Marco Knezevic) who was originally co-accused and has admitted to the charges brought against him.

It results that the Serbian national groped Maria Gonzalez Criado's breast. Pelayo Rodriguez spoke to this person questioning his behaviour. At first, Pelayo Rodriguez and the person accompanying the accused were arguing verbally but then this person punched Rodriguez. Someone separated them and it seemed that the argument was over. They shook hands and proceeded. Maria Gonzalez Criado testifies that she kept walking. Pelayo Rodriguez and Alvaro Reyes Herrero were walking in front of her. They crossed the road as well a little bit fast. She saw the Serbian national punching Alvaro's face. Pelayo Rodriguez tried to separate them and this guy started punching Pelayo Rodriguez who fell in the middle of the road, on a central strip, whilst cars were passing by. Then he started to kick Pelayo Rodriguez on his face and Pelayo Rodriguez tried to cover his face to protect himself.

Pelayo Rodriguez confirms Maria Gonzalez Criado's version and sequence of events namely why the whole argument started, that he was punched but then they shook hands. Alvaro and himself went down the street and the accused and his friend were following them. Alvaro and himself decided to cross the street to leave and Knezevic went running after them asking Alvaro what was he saying about him. Knezevic punched Alvaro Reyes and he tried to stop him but Knezevic did not answer him but punched him. Rodriguez testifies with regards to the Knezevic *"He throw me to the floor, he broke my wrist, I couldn't stand up, he was kicking me on the floor, he opened me a wound here"* (referring to eyebrows). Rodriguez

testified that whilst on the floor, he was covering his head with his hands and he could not see the Serbian guy kicking him but he could not see anyone else because he was covering his head.

Both Elisa de la Cruz and Claudia Gonzalez Criado testified that they saw the Serbian punch Alvaro and then they saw him punching Pelayo who fell in the middle of the road and after that he started kicking him.

PS 1437 Norman Xuereb testified that on the date of the incident he was easing the traffic flow. Whilst he was in Pieta' near the Home for the Elderly a man stopped his car informing him that there was a fight. The witness went on foot because they were about 20 metres ahead of him. While running on foot towards the fight he saw someone being punched and flown on the central strip. As he kept on running, he states that he saw two guys kicking the same person. One of these guys who were kicking was the accused. During his viva voce testimony, PS1437 states that when the accused saw the uniform he surrendered and was arrested. This contrasts with the current incident report where Wps215 Valerie Farrugia reported that PS 1437 had stated with reference to the accused that *"the other of British nationality continued to fight and when the police intervened to stop the fight the one with blue shirt that is Jordan James Morley tried to escape"*.

It results from the above-mentioned witnesses and proof adduced that the argument was not initiated by the accused but by his friend who groped Maria Gonzalez Criado's breast and thus, Pelayo Rodriguez went to speak to him to defend her honour. At that point, Knezevic punched Rodriguez. Things seemed to have calmed down, however Knezevic and the accused followed Rodriguez and Herrero and another fight broke out. The Serbian punched Herrero and Rodriguez intervened and was punched again by Knezeviz. Rodriguez fell on the floor and Knezevic started kicking him. All the civilian witnesses including Rodriguez only mention Knezevic as the person kicking Rodriguez and nobody mentions the accused in this respect. The Prosecuting

Officer refers to Sarah Burnell's version of events, however Sarah Burnell did not testify since it was decreed that she could not take the witness stand after she had been in the Court room whilst other witnesses testified. Thus, Sarah Burnell's version of events has not been confirmed on oath.

Pelayo Rodriguez testified specifically that it was Knezevic who broke his wrist and opened a wound in his forehead. However, Rodriguez also stated that he was covering his face with his hands and thus could not see who was kicking him. When PS 1437 testified *viva voce* he stated that he saw the accused kicking Rodriguez but he cannot state where he was kicking him. He is the only witness who testified that the accused was somehow engaged in the fight. The defence states that *a tempo vergine* PS 1437 did not mention that the accused was kicking Rodriguez. This is in fact true but he also declared that the accused continued fighting.

With regards to the nature of the injuries sustained by Pelayo Rodriguez it results that he was operated, metal was inserted in his wrist and he had a wound in his forehead. They were classified as being grievous in nature.

In view of this, the Court deems that it has been sufficiently proven that the accused disturbed the public peace and that he was involved in this fight. However, the Court deems that it has not been sufficiently proven that the accused inflicted on Pelayo Rodriguez an injury of a grievous nature. Neither can he be found guilty of being an accomplice. The reason being that Pelayo Rodriguez himself, who by profession is a nurse, testified clearly that it was Knezevic who broke his wrist and opened a wound on his forehead.

The third charge has not been proven because no proof was brought forward to substantiate that the accused was drunk.

For these reasons, the Court whilst not finding the accused guilty of the first and third charges brought against him and acquits him

from same, after having seen article 338(dd)of Chapter 9 of the Laws of Malta finds him guilty of the second charge and condemns him to pay an ammenda of €58.

Magistrate
Dr Josette Demicoli LL.D