

In the Court of Magistrates (Malta)

as a Court of Court of Criminal Judicature

Magistrate Dr Aaron M. Bugeja M.A. Law, LL.D. (melit)

The Police

(Inspector Elton Taliana)

vs

Youri Kai Smit

The Court after seeing the charges in respect of Youri Kai Smit, 24 years of age, of Dutch nationality, son of Smit and Van Oalten, born in the Netherlands residing at Marsascala holder of Dutch passport number NN 774 B7H9 where by he was charged with having in these islands on the 31st July 2016 at around 03:30 in St. George's Road, St. Julians or in the vicinity:

1. Without the intent to kill or to put the life in manifest jeopardy, caused grievous bodily harm on the person of Anthony Joma Rood as certified by Dr. Shahiad Arain from Mater Dei Hospital (Art. 216 Chapter 9 of the laws of Malta).

Having seen that on the 1st August 2016 the Prosecuting Officer read and confirmed the charges on oath;

Having seen that during the examination of the accused in terms of Article 390 and 392 of the Criminal Code the accused, in reply to the question posed in terms of Article 392(1)(b) of the Criminal Code by the Court declared that he was not guilty;

Having seen that during the sitting of the 16th September 2016 the accused Smit declared that he was guilty as charged.

Having seen that in view of this declaration of accused Lindberg, the Court warned the said accused in the most solemn manner about the consequences arising out of his guilty plea and granted him sufficient time in order for him to retract his guilty plea. The accused, after consulting with his legal counsel, reiterated that he was guilty as charged.

The Court, after having seen Article 392A(1)(2) of the Criminal Code, in the light of the said declaration by accused : -

- (a) it became *ex lege* competent to proceed with the determination of the merits of this case and it consequently converted itself into a court of criminal judicature;
- (b) in view of this same declaration by accused Smit, duly reiterated, the Court had no option but to find the accused guilty as charged.

Having seen the records of the proceedings as well as the criminal record sheet of the accused.

Having heard the final oral submissions of the Prosecuting Officer and of the Legal Counsel to the accused, and in particular that in the case of accused, given the nature of his involvement in this case, his clean criminal record sheet, the fact that he was a first time offender and also that he had already learnt his lesson well given the strict bail conditions imposed on him as well as the medical certificate exhibited in the records of these proceedings, including the deposition of the alleged injured party and the fact that the accused was clearly provoked by the comments that were passed by the alleged injured party in relation to the accused's girl friend, as well as his admission of guilt at a relatively early stage of the

proceedings, the parties agreed that this Court could consider imposing a sentence of imprisonment in its suspended form.

Decide : -

Consequently, this Court, after having seen Articles 214 and 216(1)(a)(iii)(b) of the Criminal Code finds the accused Lindberg Dante Alexander, upon his unconditional guilty plea, guilty as charged and condemns him to one year imprisonment; however having seen Article 28A of the Criminal Code it orders that the said sentence shall not take effect unless, during a period of two years from the date of this order, the offender commits another offence punishable with imprisonment and thereafter the competent court so orders under Article 28B of the Criminal Code that the original sentence shall take effect.

In terms of Article 28A(4) of the Criminal Code, the Court declares and explains in ordinary language to the accused his liability in terms of Article 28B of the Criminal Code if during the operational period he commits an offence punishable with imprisonment.

In terms of Article 392A(2) of the Criminal Code the Court orders that this judgment together with the record of the proceedings be transmitted to the Attorney General in terms of Law.

Delivered today the 16th September 2016 at the Courts of Justice in Valletta, Malta.

Aaron M. Bugeja.

Ammissjonijiet/ohrajn