



**COURT OF MAGISTRATES (MALTA)  
AS A COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE NATASHA GALEA SCIBERRAS B.A., LL.D.**

Case Number: 190/2016

Today, 7<sup>th</sup> November 2016

**The Police  
(Inspector Gabriel Micallef)**

**vs**

**Mohamed Hussein Abdi  
Residence Permit MT1590191**

The Court,

After having seen the charges brought against the accused, Mohamed Hussein Abdi, son of Hussein and Anabe nee` Khuriye, born in Somalia on 1<sup>st</sup> January 1990, residing at Marsa Open Centre, Marsa and holder of Maltese Residence Permit numbered MT1590191;

Charged with having on 13<sup>th</sup> August 2016 and the previous weeks on these Islands:

1. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the resin obtained from the plant cannabis, or any other preparation of which such resin formed the base, in terms of Section 8(a) of Chapter 101 of the Laws of Malta, which drug was found in circumstances denoting that it was not intended for his personal use;

2. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the whole or any portion of the plant cannabis in terms of Section 8(d) of Chapter 101 of the Laws of Malta;
3. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the resin obtained from the plant cannabis or any other preparation of which such resin formed the base, in terms of Section 8(a) of Chapter 101 of the Laws of Malta;
4. Committed these offences in, or within 100 metres of the perimeter of a school, youth club or centre, or such other place where young people habitually meet in breach of Article 22(2) of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta;

The Court was also requested to apply Section 533(1) of Chapter 9 of the Laws of Malta as regards to the expenses incurred by the court appointed experts.

Having heard the evidence and having seen the records of the case, including the order of the Attorney General in virtue of subsection two (2) of Section 22 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), for this case to heard by this Court as a Court of Criminal Judicature;

Having seen that during his examination in terms of law, the accused pleaded not guilty to the charges brought against him, although during his arraignment, he admitted to having had drugs in his possession and that said drugs were for his personal use, whilst contesting the rest of the charges;

Having also heard the accused plead guilty to the charges brought against him during the sitting held on 24<sup>th</sup> October 2016, which guilty plea he confirmed even after the Court, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, warned him of the legal consequences thereof and allowed him sufficient time to reconsider his plea and to retract it;

Having heard final oral submissions by the parties about the punishment to be inflicted.

**Considered that:**

In view of the guilty plea filed by the accused with respect to the charges brought against him, the Court cannot but find him guilty of such charges.

For the purpose of the punishment to be inflicted, the Court took into consideration that the accused cannot be deemed to have filed an early guilty plea, and this in view of the fact that when he entered such plea, the Prosecution had tendered most, if not

all, of the evidence in this case, so much so that said plea was entered during a sitting, which was intended for the Prosecution to rest its case. It is certainly therefore not the case that the Prosecution's and the Court's time and resources have been saved through the timeliness of the said plea.

Furthermore, the Court took into consideration the serious nature of the charges brought against the accused and the amount of cannabis resin found in his possession. In terms of the report drawn up by expert Scientist Godwin Sammut, from the extracts taken from the brown substance in document 139\_16\_01 (consisting of evidence bag number M00104803, which contained a packet of cigarettes containing brown substances, a plastic bag with traces of green grass and two lighters), the substance *Tetrahydrocannabinol* was found. This substance weighed 37.68 grams in total and the purity was of about 6%. Furthermore, on an extract taken from the green grass in the said document, the substance *Tetrahydrocannabinol* was also found. Thus, whilst only traces of the cannabis plant were present in the plastic bag mentioned, on the other hand, the amount of cannabis resin found in the possession of the accused certainly cannot be deemed as slight or negligible, but is on the contrary quite a significant amount. Indeed when one considers that a typical dose of cannabis in a joint consists of 0.2 grams<sup>1</sup>, this means that this amount could potentially produce circa 188 cannabis joints.

Furthermore, for the purpose of the punishment to be inflicted, the Court deemed the offence contemplated in the third charge as being comprised in the offence contemplated in the first charge and it applied the provisions of Section 17(f) of Chapter 9 of the Laws of Malta in respect of the mandatory fine (*multa*) applicable to the first charge and the fine (*multa*) that will be imposed by the Court in respect of the second charge. Furthermore, the Court applied the increase in punishment contemplated in the second proviso to Section 22(2) of Chapter 101 of the Laws of Malta to the offence in the first charge (in terms of the fourth charge).

The Court notes that the criminal record of the accused has not been exhibited in the course of these proceedings.

## **Conclusion**

For these reasons, the Court after having seen Sections 8(a), 8(d), 22(1)(a), 22(2)(b)(i) and (ii) and the second proviso of Section 22(2) of Chapter 101 of the Laws of Malta, Regulation 9 of Subsidiary Legislation 101.02 and Sections 17 and 31 of Chapter 9 of the Laws of Malta, upon his guilty plea, finds the accused guilty of the charges brought against him and condemns him to a term of eighteen (18) months effective imprisonment - from which term one must deduct the period of time, prior to this judgement, during which the person sentenced has been kept in preventive

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<sup>1</sup> *World Drug Report 2006 Volume I. Analysis*, pagina 96 *et seq.*

custody in connection with the offences in respect of which he is being found guilty by means of this judgement - and a fine (*multa*) of one thousand Euro (€1,000).

The Court orders that the drugs exhibited as Document GM are destroyed, once this judgement becomes final, under the supervision of the Registrar, who shall draw up a proces-verbal documenting the destruction procedure. The said proces-verbal shall be inserted in the records of these proceedings not later than fifteen days from the said destruction.

Furthermore, it condemns the person sentenced, namely Mohamed Hussein Abdi, to the payment of the expenses relating to the appointment of court expert Godwin Sammut, in terms of Section 533 of Chapter 9 of the Laws of Malta, which expenses amount to the sum of two hundred, twenty four Euro and twenty cents (€224.20).

Natasha Galea Sciberras  
Magistrate