



Criminal Court

Hon. Madame Justice Dr. Edwina Grima LL.D.

Bill of Indictment Nr. 3/2017

The Republic of Malta

Vs

Kenny Johnson

Today the 7th December, 2017,

The Court,

Having seen the charges brought against accused Kenny Johnson, holder of Italian Identity Card AT 7605146, by means of Bill of Indictment Nr. 3 of the year 2017 whereby the Attorney General in the First Count premised:

That on the twenty-sixth (26th) day of November of the year two thousand and fourteen (2014) and during the previous days Kenny Johnson decided to import drugs illegally into the Maltese Islands.

In fact on the above mentioned date, at around eleven hours (23.00), during a search conducted by the Drug Squad Police Officers on the passengers arriving from Pozzallo, Sicily aboard the Virtu Ferries Catamaran, at the Marsa Sea Port Terminal, **KENNY JOHNSON** was stopped due to the fact that the police noticed that the luggage that he was carrying had something peculiar in one of its side compartments and thus became suspicious that he might have been carrying

something illegal. Consequently, on further analysis, it transpired that in fact inside the said compartment there were six (6) packs of what appeared to be cannabis grass sealed in cling film. Following this finding the police notified duty Magistrate Dr. Giovanni Grixti who appointed various experts to assist him, preserve all the evidence extracted from the crime scene and to carry out all the necessary examination thereof.

From the analysis carried out by one of the Court nominated experts, namely forensic scientist Godwin Sammut it was established that the green grass that was elevated from the luggage in question pertaining to the accused **KENNY JOHNSON** contained tetrahydrocannabinol confirming that the substance found was in fact cannabis grass. The total weight of the cannabis grass was 1363 grams and the purity was circa 7.5% with a value, at that time, of thirty four thousand and seventy five euro (€34,075). Further analysis was also carried out on the brown powder that was present on the cling film that was covering the green grass which resulted positive to caffeine.

The plant cannabis or any portion thereof is scheduled under part III of the Dangerous Drugs Ordinance;

By committing the abovementioned acts with criminal intent, **KENNY JOHNSON** rendered himself guilty of importing, or caused to be imported, any dangerous drug (Cannabis) into Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **KENNY JOHNSON** of being guilty of having, on the twenty-sixth (26th) day of November of the year two thousand and fourteen (2014) and during the previous days, with criminal intent, imported, or caused to be imported any dangerous drug (cannabis) into Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta; and demands that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a

fine of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in articles 7, 12, 14(1), 15A, 22(1)(a)(1B)(2)(a)(i) (3A)(d), 22A, 24A and 26 of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta and of articles 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen the second count of the bill of indictment as premised by the Attorney General, whereby:

That during the period of time mentioned in the preceding count of this bill of indictment, and within the same circumstantial context, that is to say on the twenty sixth (26th) day of November of the year two thousand and fourteen (2014) **KENNY JOHNSON** was knowingly in possession of 1363 grams of cannabis grass in the Maltese Islands and thus the amount itself and the circumstances in which it was found denoted that it was not intended for his exclusive personal use. Moreover he was not authorized to be in possession of such drugs in terms of Law.

Consequently by committing the abovementioned acts with criminal intent, **KENNY JOHNSON** rendered himself guilty of being in possession of the plant cannabis or any portion thereof (cannabis grass) as specified under part III of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to manufacture or supply the mentioned drug, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drug, and failed to prove that the mentioned drug was supplied to him for his personal use, according to a medical prescription

as provided in the said regulations and this in breach of the 1939 Regulations of the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his exclusive personal use.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **KENNY JOHNSON** of being guilty of having, on the twenty sixth (26th) day of November of the year two thousand and fourteen (2014) of being in possession of a dangerous drug (cannabis) with criminal intent, as specified in the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his exclusive personal use; and demands that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in articles 2, 8(d), 10(1), 12, 20, 22(1)(a)(2)(a)(i)(ii), (3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta

and of regulations 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen the joint application of the Attorney General and accused, presented in the registry of this Court on the 24th November, 2017, whereby, the applicants, whilst making reference to Section 453A(1) of the Criminal Code, humbly request this honorable Court that in the event that Kenny Johnson admits all the charges proffered against him in the bill of indictment, the punishment to be awarded by this same Court, will consist of a term of imprisonment of seven (7) years and the imposition of a fine of twenty three thousand euro (€23,000) together with the other sections and consequences that are mandatory prescribed by Law upon conviction in terms of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, including the confiscation of any monies and other movable and immovable property of the accused in accordance to law.

Having seen all the records of the case, including those of the compilation of evidence before the Court of Magistrates (Malta) as a Court of Criminal Inquiry;

Having seen that in today's sitting the accused Kenny Johnson, in reply to the question as to whether he was guilty or not guilty of the charges preferred against him under the two counts of the Bill of Indictment, stated that he was pleading guilty thereto;

Having seen that this Court then warned the accused in the most solemn manner of the legal consequences of such statement and allowed him ample time to retract it, according to Section 453 of Chapter 9 of the Laws of Malta;

Having seen that the accused, after being granted such a time, persisted in his statement of admission of guilt;

Declares Kenny Johnson guilty of both counts in the Bill of Indictment, namely that:-

1. On the twenty-sixth (26th) day of November of the year two thousand and fourteen (2014) and during the previous days, with criminal intent, imported, or caused to be imported any dangerous drug (cannabis) into Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta;
2. On the twenty sixth (26th) day of November of the year two thousand and fourteen (2014) of being in possession of a dangerous drug (cannabis) with criminal intent, as specified in the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his exclusive personal use.

Having seen articles:

articles 2, 7, 8(d), 10(1), 12, 14(1), 15A, 20, 22(1)(a)(1B)(2)(a)(i)(ii) (3A) (a)(b)(c)(d)(7), 22A, 24A and 26 of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, regulations 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code

The Court feels that in this case it should adhere to the Attorney General and the accused's application and therefore condemns the said Kenny Johnson to a term of

imprisonment of seven (7) years and the imposition of a fine of twenty-three thousand Euros (€23,000), which fine (multa) shall be converted into a further term of imprisonment of one year according to Law, in default of payment;

Furthermore condemns him to pay the sum of four thousand, six hundred and nineteen Euros and seventy-nine cents (€4619.79) being the sum total of the expenses incurred in the appointment of court experts in this case in terms of Section 533 of Chapter 9 of the Laws of Malta;

Moreover, orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which he has been found guilty and other moveable and immovable property belonging to the said Kenny Johnson.

Finally, orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out by the Assistant Registrar of the Criminal Court, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

Edwina Grima

Judge