



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

**MAGISTRATE
DR. NEVILLE CAMILLERI B.A., M.A. (Fin. Serv.), LL.D.**

Sitting of the 14th. of February 2018

**The Police
(Inspector Frank Anthony Tabone)**

vs.

Henry Opara

Case Number 488/2016

The Court

After having seen the charges¹ brought against the accused **Henry Opara**, twenty one (21) years old, son of Polenos and Rita, born in Nigeria on the 2nd. of August 1995, with no residence in the Maltese Islands and holder of Nigerian Passport Number A07040817,

¹ A fol. 3 et seq.

charged with having on the 13th. of September 2016 and in the previous days and months and/or outside the Maltese Islands:

1. together with another one or more persons in Malta or outside Malta, conspired, promoted, constituted, organised or financed the conspiracy with other person/s to import, sell or deal in drugs (*Cannabis Grass*), in these Islands, against the provisions of The Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, or promoted, constituted, organised or financed the conspiracy;
2. imported, or caused to be imported, or took any steps preparatory to import any dangerous drug (*Cannabis Grass*) into Malta against the provisions of The Dangerous Drugs Ordinance, 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 whole or any portion of the plant *Cannabis* in terms of Section 8(d) of the Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for his personal use;
4. 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 the Chapter 101 of the Laws of Malta.

The Court was requested to attach in the hands of third parties in general all moneys other movable property due or pertaining or belonging to the accused and to prohibit the accused from transferring, pledging, hypothecating or otherwise disposing of any movable or immovable property in terms of Article 22A of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) and of Article 23A of the Criminal Code (Chapter 9 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 examined all the documents forming part of the proceedings.

Having seen the Order of the Attorney General in terms of Article 22(2) of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) (Doc. "FT 5" - *a fol.* 14) dated 13th. of September 2016, wherein the Attorney General ordered that the accused be tried before the Criminal Court.

Having seen Process Verbal No. 15/17 (Doc. "CF 1" - *Loose Envelope*) drawn up by Magistrate Dr. Consuelo Scerri Herrera exhibited during the sitting of the 17th. of January 2017.

Having seen the Counter-Order of the Attorney General in terms of Article 31 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) (*a fol.* 90 and 94) wherein the Attorney General ordered that the accused be tried before the Court of Magistrates (Malta) as a Court of Criminal Judicature.

Having heard, during the sitting of the 14th of September 2017 (*a fol.* 98), the defence declare that it has no objection for this case to be heard and tried summarily by this Court.

Having heard, during the sitting of the 14th. of September 2017 (*a fol.* 98), the accused plead guilty to all the charges brought against him.

Having seen the application filed by the Attorney General and the accused in terms of Article 392A(5) of Chapter 9 of the Laws of Malta (*a fol.* 110).

Having heard, during today's sitting (*a fol.* 109), the accused once again plead guilty to all the charges brought against him notwithstanding the fact, during the mentioned sitting, the Court, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, warned

him in the most solemn manner of the legal consequences of his guilty plea after having given him sufficient time within which to reconsider and withdraw his guilty plea.

Considers

That, as a consequence of the admission of the accused of the charges brought against him, all the charges brought against the accused have been sufficiently proven.

With regards to the punishment to be inflicted against the accused, the Court will be taking into consideration the application filed by the Attorney General and the accused in terms of Article 392A(5) of Chapter 9 of the Laws of Malta (*a fol.* 110). In terms of Article 392A(7) of Chapter 9 of the Laws of Malta, the Court will proceed to award the sentence indicated to it by the parties in terms of Article 392A(5) of Chapter 9 of the Laws of Malta (*a fol.* 110) on their own request since the Court is satisfied with the sanction therein indicated.

Therefore, the Court, after having seen and considered Articles 8(d), 15A, 22(1)(a), 22(1)(f), 22(2)(b)(i) and 22(2)(b)(ii) of Chapter 101 of the Laws of Malta and Regulation 9 of Subsidiary Legislation 101.02 of the Laws of Malta finds the accused Henry Opara guilty of all the charges brought against him and condemns him to a period of four (4) years imprisonment and to the payment of a fine (*multa*) of two thousand and five hundred Euros (€2500).

The Court orders the destruction of the drugs which have been exhibited in these proceedings.

The Court rejects the Prosecution's request contained in the charge-sheet regarding Article 22A of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) and Article 23A of the Criminal Code (Chapter 9 of the Laws of Malta) and this in view of the Prosecution's declaration during the sitting of the 20th. September 2016 (*a fol.* 17 and 18).

Finally, after having seen and considered Article 533 of Chapter 9 of the Laws of Malta, the Court condemns the accused Henry Opara to pay the amount of seven hundred and fifty six Euros and seventy four cents (€756.74) within a period of one year from today which amount represents the costs incurred in connection with the employment of experts in this case.²

Dr. Neville Camilleri
Magistrate

Ms. Christine Farrugia
Deputy Registrar

² Mr. Jonathan Mizzi (Doc. "JM 1" - €257.55) (*a fol. 42 tergo*); Scientist Godwin Sammut (Doc. "GS 1" - €194.70) (*a fol. 71 tergo*); PS 659 Jeffrey Hughes (Doc. "JH 1" - €85.91) (*a fol. 87*); Mr. Jonathan Mizzi (Doc. "JM 1" - €107.10) (*Loose Envelope*); PC 558 Patrick Attard (€79.11) (*a fol. 15 of the Process Verbal - Loose Envelope*); PS 186 Kristian Mintoff (€32.37) (*a fol. 29 of the Process Verbal - Loose Envelope*).