

**IN THE COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE
DR. ANTHONY J. VELLA BA., LL.D., MA**

TODAY 8th March 2018

**Police
Inspector Godwin Scerri
Vs
Stephen D. Hodgkinson**

The Court;

After seeing the charges brought against Stephen D. Hodgkinson of 48 years, s/o David & Baryl nee Davis, born in Bolton UK, on the 29th July 1967, residing at Apt 3, Sammut Flats Francesco Himenez Street, Sliema, holder of identification document number: 113056(A);

With having on the 29th of July 2015 at around 11:30pm at Mosta Rd in St. Paul's Bay,

- 1) Without the intent to kill or to put the life of Ebenezer Byarko in manifest jeopardy caused the mentioned grievous bodily harm;
- 2) And accused of having on the 29th of July 2015 at the same time, place and circumstances, willfully disturbed the public good order or the public peace.

Having seen the charges brought against the accused;

Having heard all the witnesses produced in Court;

Having seen all the acts and documents exhibited;

Having heard the prosecution and defence counsel make their submissions;

Considers;

The facts of this case were as follows. On the day in question, the accused was passing by a shop in Mosta Road, St Paul's Bay, by the name of Broaster Chicken, when he noticed a car which, according to him, was parked wrongly, and inside the vehicle there were cans of beer. He asked around who the driver was, and when Ebenezer Nyarko, the injured party in this case, came forward and said the car was his, a scuffle ensued between them. Both sustained injuries in the fight, and had them seen to by doctors. The accused filed a report with the Qawra Police and gave his version of facts. Later on that night, Nyarko also went to the same Police station and reported the incident. After the Police investigations were concluded, charges were issued against both parties, and this Court was entrusted with the case against Mr Hodgkinson.

From the evidence submitted, it is evident that an argument broke out between the accused and Nyarko. Both parties, however, although admitting that punches and blows were exchanged, both deny starting the fight, and both blame the other party for the incident. The Court, therefore, had to see which version was more credible in the circumstances. It appears very clear to the Court that this incident arose solely out of the accused's behaviour on the day. The incident was totally unsolicited, and the accused's attitude exacerbated and aggravated the whole case. The testimony given by the employee of Broaster Chicken, a certain Mark Ucras, was clear in this regard. The witness was an independent witness, unrelated to both parties, and explained how aggressive the accused was towards Nyarko, even though the latter kept doing his best to calm the situation down. Hodgkinson saw Nyarko's vehicle parked badly, saw beer cans in the said vehicle, and started remarking loudly, claiming he was

going to report the whole thing to the Police. Rather than do just that, and perhaps discreetly, the accused chose to make a show of it all, kicking the vehicle's tyres and tugging at the vehicle's windscreen wipers, at which point Nyarko felt compelled to intervene. No explanation was given by the accused for this sudden display of rage on his part. In this fight, the accused suffered slight injuries, as shown in the medical certificate exhibited at folio 125 of the proceedings. Nyarko, on the other hand, suffered grievous injuries, as shown in the certificates and documents produced, and these injuries were caused solely by the accused's aggression.

The Court therefore is finding the accused guilty of the first charge brought against him, since there was no provocation or cause for offence on the part of the injured party. As to the second charge, that of breaching the public peace, the evidence submitted did not reach the threshold established at law, and the Court is consequently acquitting the accused of this charge.

Now, therefore, the Court;

After having seen Articles 216 and 338(dd) of Chapter 9 of the Laws of Malta;

After having heard the evidence and the documents exhibited;

The Court does not find the said accused guilty of the second offence and is therefore acquitting him of this second charge.

Finds the accused guilty of the first offence and condemns him to one year imprisonment, suspended for three years, in terms of Article 28A of Chapter 9 of the Laws of Malta.

Orders the accused to effect payment to the injured party the sum of two thousand and fifty Euro (€2,050.00) within six (6) months, in terms of Article 28H of Chapter 9 of the Laws of Malta.

The Court explained in clear words the terms of the judgment to the accused.

DR ANTHONY G VELLA BA. LL.D. M.A.

MAGISTRAT