



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

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

Case Number: 86/2018

Today, 18th July 2018

**The Police
(Inspector Maurice Curmi)**

vs

**Lincoln Anthony Millwood
(British Passport Number 513417199)**

The Court,

After having seen the charges brought against the accused Lincoln Anthony Millwood, 36 years, son of Tony and Maxine nee` Barnes, born in UK on 28th February 1982, residing at 'The Triton', Room 226, Triq it-Tartarun, St. Paul's Bay, holder of British Passport Number 513417199;

Charged for having on 5th May 2018, at about two o'clock in the afternoon (14:00 hrs) in St. Paul's Bay, had in his possession the drugs (cocaine) specified in the First Schedule 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 Part 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 (GN 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, **which drug was found under circumstances denoting it was not intended for his personal use** and this in breach

of the 1939 Regulations of the Internal Control of Dangerous Drugs (GN 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta;

For having on the same date, time, place and circumstances, 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, **which drug was found under circumstances denoting that it was not intended for his personal use**, in terms of Article 8 of Chapter 101 of the Laws of Malta;

For having on the same date, time, place and circumstances, had in his possession the psychotropic and restricted drug (ecstasy) without a special authorization in writing by the Superintendent of Public Health, in breach of the provisions of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta and the Drugs (Control) Regulations, Legal Notice 22 of 1985 as amended.

The Court was requested, in pronouncing judgement to condemn the person convicted, to the payment, wholly or in part, to the Registrar, of the costs incurred in connection with the employment of any expert or referee, in terms of Sections 532A, 532B and 533 of Chapter 9 of the Laws of Malta.

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) and of subsection (2) of Section 120A of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta), for this case to heard by this Court as a Court of Criminal Judicature;

Having heard the accused plead guilty to the first charge brought against him, to the second charge but limitedly to possession for personal use and to the third charge, 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.

Considered that:

In view of the guilty plea filed by accused in respect of the first and third charges brought against him, the Court cannot but find him guilty of such charges. As regards the second charge, accused pleaded guilty limitedly to possession of the plant cannabis for personal use and is contesting this charge in so far as this refers to the aggravating circumstance of possession in circumstances denoting that it was not intended for his exclusive use.

In this respect, from the evidence adduced, it results that at accused's residence, police officers found three plastic bags containing cannabis grass, weighing circa 4.982 grams, 3.775 grams and 7.663 grams respectively. According to PC 1359 Ruben Zammit, who conducted the search, these were found "*scattered on the kitchen cupboard*"¹. In his statement, accused states that these were intended for his own consumption as he is a very heavy cannabis user. Witness Hafida Ahwani, accused's partner, confirms in her testimony, that accused is a very heavy cannabis user, that she has known him for eighteen years and that he has been smoking cannabis ever since she has known him. She also states that his drug habit increased following an incident in which accused lost an eye and fell into a depression. She further states that he has previously been found guilty of possession of cannabis and although he has attended drug rehabilitation sessions or programme, his habit did not subside.

Having considered the above, in particular, that the respective weight of the three different bags was dissimilar, that the amount in total was not excessive although not insignificant, accused's heavy cannabis consumption, as well as that, unlike the cannabis bags, the twenty four sachets of cocaine found in accused's possession and which, by his own admission, he intended to supply to and share with his friends later, were found in his bag, the Court deems that it does not result to the degree required by law, that said cannabis was not intended for accused's exclusive personal use.

For the purposes of the punishment to be inflicted, the Court took into account the relatively early guilty plea filed by accused and that he cooperated with the police during its investigation. It also considered the amount of cocaine seized – circa 16.728 grams divided in twenty four plastic bags - and the circumstances of the case.

As regards the monies seized and exhibited by the Prosecution in the records of the present case, the Court notes Prosecution's declaration, in the minute of the sitting held on 4th July 2018, that in view of the evidence adduced, it has no objection that such monies are released in favour of accused and after having considered the evidence produced, the Court does not deem that there is any evidence to conclude that these were derived from drug-related activity.

Conclusion

For these reasons, the Court after having seen Parts IV and VI, Sections 8(d), 22(1)(a), 22(2)(b)(i) and (ii) of Chapter 101 of the Laws of Malta, Regulation 9 of Subsidiary Legislation 101.02, Section 17(f) of Chapter 9 of the Laws of Malta, Sections 40A, 120A(1)(a) and 120A(2)(b)(ii) of Chapter 31 of the Laws of Malta and Regulation 3(1) of Legal Notice 22 of 1985, finds accused not guilty of the second

¹ Vide deposition of PC 1359 Ruben Zammit, a fol. 40 of the records.

charge as adduced against him in so far as this refers to possession of the cannabis plant or any portion thereof in circumstances denoting that this was not intended for his personal use and acquits him thereof, but upon his guilty plea, finds him guilty of the first and third charges brought against him and of the second charge but only in respect of the possession of said cannabis plant for personal use and condemns him to a term of **seven (7) months effective imprisonment** – from which term one must deduct the period of time, prior to this judgement, during which he has been kept in preventive custody in connection with the offences of which he is being found guilty by means of this judgement – and **a fine (multa) of one thousand and two hundred Euros (€1,200)**.

Since no experts were appointed during these proceedings, the Court is not taking any further note of the Prosecution's request in terms of Section 533 of Chapter 9 of the Laws of Malta.

The Court orders that the drugs exhibited as Documents MC 2 to MC 6 are destroyed, once this judgement becomes final and definitive, under the supervision of the Court 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 orders the release of the mobile phones exhibited as Document MC and the monies exhibited as Document MC 1 in favour of Lincoln Anthony Millwood.

The Court recommends to the Director of Prisons to provide the person sentenced with any assistance and/or treatment he may require in connection with his drug habit.

Natasha Galea Sciberras
Magistrate