

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

**DR. RACHEL MONTEBELLO B.A. LL.D.
MAGISTRATE**

**THE PRINCIPAL IMMIGRATION OFFICER
(Inspector Hubert Gerada)**

Vs

SETH PASSAH

Today, 15th August, 2019

The Court,

Having seen that SETH PASSAH, 26 years of age, son of Emanuel and Comfort Buatin, born in Ghana on the 1st January 1993, holder of Ghana Passport bearing number H2775090 and Italian Residence Permit bearing number I12601972, Ghanaian National residing in Italy, was arraigned and charged with having:-

On the 15th August 2019 in Malta while having in his possession document issued by a competent authority, that is Belgian Passport bearing number: EN346364 in the name of Anthony Waife-Ababio, had transferred this document to another person or received this document which was transferred to him by another person;

And charge him also with having on the same date, time and circumstances made use or attempted to make use of Identity Card, issued to another person, that is the mentioned document;

And charge him also with having on the same date, time and circumstances made false return, false statement or false representation to the Principal Immigration Officer.

Having seen that during the hearing of the 15th August 2019, after having heard the accused declare that he does not understand the Maltese language but understands the English language, the proceedings were ordered to be conducted in the English language;

Having seen that during his arraignment at the hearing of the 15th August 2019, the accused admitted his guilt on all charges brought against him;

Having seen that the accused, even after having been afforded considerable time to reconsider his guilty plea and to consult with his defence lawyer, and after having been informed by the Court several times of the seriousness of such guilty plea and of the punishment attached to each of the charges in the event of a guilty plea, definitively confirmed his admission of guilt;

Having heard the submissions of both the Prosecution and the defence regarding the punishment to be inflicted on the accused in consequence of his admission of guilt;

Having seen all the acts of the proceedings;

Having considered;

The accused, in the presence of his legal aid counsel and voluntarily, admitted to and registered a guilty plea in respect of the three charges brought against him. Consequently and in the light of this guilty plea, the Court deems that the charges have all been duly and sufficiently proven at Law and therefore finds the accused guilty of all such charges.

Regarding the punishment to be inflicted upon the accused as a result of his guilty plea, the Court took several factors into consideration, including the nature of the crime of which the accused is being found guilty, which crime constitutes a calculated attack on the trust which society is expected to have in documents that are issued by public authorities. This, the Court cannot condone and is concerned moreover that in today's society, such crimes appear to be committed with relative ease and frequency and without due regard to the detriment that such crimes cause to public trust.

Nonetheless, the Court also took into account the early admission of the accused, his evident regret at having committed this crime and his full cooperation in the relative Police investigations into the matter, as well as the fact that the accused, who is seeking asylum, was evidently attempting to seek a better life in another country.

Finally, the Court considered that in terms of Article 5(d) of Chapter 217 of the Laws of Malta, the accused as a result of this conviction, is to be considered as a prohibited immigrant thereby allowing the Principal Immigration Officer to order his removal from Malta and consequent return to his country of residence.

For the purpose of punishment, the Court also took due note of the formal concurrence of the crimes of that the accused is being found guilty and upon due application of this principle, the punishment that is to be inflicted on the

accused is that applicable to the charge carrying the graver punishment, that is the first charge brought in terms of Article 32(1)(c) of Chapter 217 of the Laws of Malta.

Decide

For these reasons, the Court, after having seen Articles 3 and 4 of Chapter 61 of the Laws of Malta, and Article 32(1)(c) of Chapter 217 of the Laws of Malta, finds SETH PASSAH guilty upon his own admission, of all charges brought against him and condemns him to the punishment of imprisonment for a term of one (1) year, but since in the circumstances of the case there exist valid reasons for the application of the provisions of Article 28A of Chapter 9 of the Laws of Malta, the Court orders that the sentence of imprisonment shall not take effect unless within a period of two (2) years from today, SETH PASSAH commits another offence punishable with imprisonment.

The Court explained to the offender in ordinary language his liability under Article 28B of Chapter 9 of the Laws of Malta if during the operational period he commits an offence punishable with imprisonment.

**DR. RACHEL MONTEBELLO
MAGISTRATE.**