



Criminal Court

Hon. Judge Giovanni M. Grixti, LL.M, LL.D.

Bill of Indictment No. 1/2011

The Republic of Malta

Versus

**Austin Uche
Omissis**

Today, 10th March, 2020

The Court,

Having seen the charges brought against the accused Austin Uche, holder of ID number 40790(A), by means of Bill of Indictment No. 1 of the year 2011 whereby the Attorney General in the First Count premised :

That on the twenty sixth (26th) day of August of the year two thousand and nine (2009) and during the previous two years Austin Uche and Omissis decided to start dealing, offering, supplying and distributing drugs illegally in the Maltese Islands in agreement with others.

In fact, on the dates above mentioned Austin Uche and Omissis conspired and agreed with a certain Tony Johnson to sell, supply and distribute to a third person in Malta an amount of the drug cocaine (approx. 1 kg). In execution of this conspiracy the two accused agreed to provide all the necessary assistance and information for this illegal activity to take place, which activity causes untold harm to Maltese society and an illegal financial gain to the accused, which financial gain was at the basis of this conspiracy.

In fact, Austin Uche informed Tony Johnson that he knew a person in Malta who wanted to buy a kilogram of cocaine and that he was ready to make all the necessary arrangements for this drug deal to take place. Moreover, Tony Johnson agreed with Austin Uche to get the kilogram of cocaine from the other accused Omissis.

In execution of these pre-concerted plans, on the 26th of August 2009 Tony Johnson went to the residence of Omissis at St. Paul's Bay, Malta and there Omissis supplied Tony Johnson with an amount of the dangerous drug cocaine. Later that day after his meeting with Omissis, Tony Johnson went to the Marsa Open Centre to meet the other accused Austin Uche. According to their plans, Austin Uche and Tony Jonson were then going to meet another person who agreed to buy

the kilogram of cocaine for around twenty thousand euro (€20,000).

Fortunately, Police Officers from the Drug Squad, knowing that an illegal activity concerning drug trafficking will take place, were observing the area of Ghajn Dwieli, Paola and stopped and arrested both Austin Uche and Tony Johnson. When effecting this arrest Police Officers noticed a dark bag and this bag was taken for further analysis. In fact, it transpired that this bag contained a total of 949.13 grams of cocaine with its purity calculated at 33.7%. The total street value of this amount of drugs as established by the Court-appointed expert is of €72,134. This consignment of drugs was the subject matter of the abovementioned conspiracy.

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance.

By committing the abovementioned acts with criminal intent, Austin Uche and Omissis rendered themselves guilty of conspiracy to trafficking in the dangerous drug cocaine in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta or by promoting, constituting, organizing or financing such conspiracy.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated

above, accuses Austin Uche and Omissis of being guilty of having, on the twenty sixth(26th) day of August of the year two thousand and ten (2009) and during the previous two years with criminal intent, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in drugs (cocaine) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy,

Demands that the two accused be proceeded against according to law, and that they 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 four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favor of the Government of Malta 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, 9, 10(1), 12, 22(1)(a)(f)(1A)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance 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 two accused.

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

That on the twenty sixth (26th) day of August of the year two thousand and nine (2009) and during the previous two years, Omissis decided to start trafficking, supplying, procuring and distributing dangerous drugs (cocaine) to other persons in the Maltese Islands.

In fact on the 26th day of August 2009 Tony Johnson went to the residence of Omissis at St. Paul`s Bay, Malta and there Omissis procured, supplied and gave Tony Johnson an amount of the dangerous drug cocaine. Omissis supplied Tony Johnson with this consignment of drugs to be trafficked and sold to third persons in Malta as described in the first count of this bill of indictment. Omissis was going to receive twenty thousand euro (€20,000) from this drug deal.

Fortunately, Police Officers from the Drug Squad, knowing that an illegal activity concerning drug trafficking will take place, were observing the area of Ghajn Dwieli, Paola and stopped and arrested both Austin Uche and Tony Johnson. When effecting this arrest Police Officers noticed a dark bag and this bag was taken for further analysis. In fact, it transpired that this bag contained a total of 949.13 grams of

cocaine with its purity calculated at 33.7%. The total street value of this amount of drugs as established by the Court-appointed expert is of €72,134. This amount of the dangerous drug cocaine was supplied and procured by the accused Omissis.

Omissis supplied, distributed and procured the dangerous drug cocaine to other persons in Malta and in particular to a certain Pascal Okafor. In fact in the year two thousand and eight (2008) Omissis supplied Pascal Okafor with the dangerous drug cocaine with the intention to sell it to other persons.

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance.

By committing the abovementioned acts with criminal intent, Omissis rendered himself guilty of supplying or distributing, or offering to supply or distribute the dangerous drug (cocaine) in 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 Omissis of being guilty of having, on the twenty sixth (26th) day of August of the year two thousand

and nine (2009) and during the previous two years, with criminal intent, supplied or distributed or offered to supply or distribute the drug cocaine 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 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, 9, 10(1), 12, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance 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 the accused Austin Uche, presented in the Registry of this Court on the 6th March, 2020 whereby, the applicants, whilst making reference to Article 453A(1) of the Criminal

Code, humbly request this Honourable Court that in the event that Austin Uche admits to the charges proffered against him in the first count of the bill of indictment, the punishment to be awarded by this same Court, will consist of a term of imprisonment of five (5) years together with the imposition of a fine of seven thousand thousand Euros Multa (€7,000) together with the other sanctions and consequences that are mandatorily 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 Austin Uche, in reply to the question as to whether he was guilty or not guilty of the charge proffered against him under the first count of the Bill of Indictment, accused registered a plea of guilt;

Having then warned the accused Austin Uche in the most solemn manner of the legal consequences of such plea and

allowed him ample time to retract it and this in accordance with Article 453 of Chapter 9 of the Laws of Malta;

Having seen that the accused, after being granted such time and having declared that such time was sufficient for him, that he understood the charge brought against him, that he is aware of the punishment which can be imposed for this crime, persisted in his statement of admission of guilt;

Declares Austin Uche guilty of the only charge proffered against him, that is the First Count in the Bill of Indictment, namely that :

On the twenty sixth(26th) day of August of the year two thousand and ten (2009) and during the previous two years with criminal intent, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in drugs (cocaine) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy;

Having seen articles, 22(1) (f) (1A) (1B) (2) (a) (i) (3A) (a)(b)(c)(d) (7) of the Dangerous Drugs Ordinance and articles 23, 23A, 23B, 23C and 533 of the Criminal Code, Chapter 9 of the Laws of Malta;

Having seen the conduct sheet of the accused;

The Court is of the opinion that the sanction and measure proposed in the joint application as aforesaid in this case should be upheld and that there is no reason to proceed with the trial of the cause and, therefore, having explained to the accused the consequences of his request, condemns the said Austin Uche to a term of imprisonment of five (5) years together with the imposition of a fine of seven thousand thousand Euros Multa (€7,000).

Having heard submissions by both parties regarding court expenses in relation to experts' fees, is of the opinion that these should be proportioned as to one third (1/3) given that facts gave rise to three persons being accused, two in these proceedings and another separate proceeding in the name The Republic of Malta vs Tony Johnson, decided on the 30th June, 2013.

Therefore also condemns the said Austin Uche to pay the sum of eight hundred and forty three point forty two Euros (€843.42) being one third the sum of the expenses incurred in the appointment of court experts (consisting of Dr Martin Bajada €530.86, Dr Marisa Cassar €1,097.78, Dr Martin Bajada €53.10, PS 659 Jeffrey Hughes €65.37, PS Sergio

Azzopardi €57.01 and Dr Martin Bajada €726.17) in this case in terms of Article 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 Austin Uche has been found guilty and all other moveable and immovable property belonging to the said Austin Uche unless the Attorney General shall by means of a note filed in the Registry of this Court within fifteen days from today request the stay of the forfeiture of the property of Mr Austin Uche involved in the crime due to it being requested in proceedings against other accused.

The Court refrains from ordering the destruction of the drugs exhibited in the records of these proceedings in terms of article 22E of Chapter 101 of the Laws of Malta as the same exhibit is requested in the case against Omissis.