



Criminal Court

Hon. Madame Justice Dr. Consuelo-Pilar Scerri Herrera LL.D.

Admission Nr. 3/2019

The Republic of Malta

Vs

Thomas James Appleby

Today the, 21st July, 2019,

The Court,

Having seen the charges brought against the accused Thomas James Appleby, holder of Maltese Identity Card Nr. 208632A and British Passport Nr. 555445003 in front of the Court of Magistrates (Malta), as a Court of Criminal Inquiry wherein he is charged with having on the 12th June, 2019, and/or during the previous months, on these islands;

1. Together with another one or more persons in Malta or outside Malta conspired, promoted constituted organized or financed the conspiracy with other person/s to import, sell or deal in the drug (*cannabis grass*), in these Islands against the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, or promoted, constituted, organized or financed the conspiracy.
2. 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 Chapter 101 of the Laws of Malta, which

drug was found under circumstances denoting that it was not intended for his personal use.

3. Produced, sold or otherwise dealt with the whole or any portion of the plant Cannabis in terms of section 8(e) of Chapter 101 of the Laws of Malta.

The Court was 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.

The Court was requested to attach in the hands of third parties in general all moneys and other moveable property due or pertaining or belonging to the accused, and further prohibit the accused from transferring, pledging, hypothecating or otherwise disposing 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.

Having seen the minutes of the proceedings held in front of the Court of Magistrates of the 14th June, 2019, whereby the accused admitted all charges brought against them and confirmed such guilty plea even after that Court solemnly warned them of the legal consequences of the said admission and allowed them a period of time for them to consider their decision.

Having seen the note of the Attorney General of the 11th July, 2019, whereby it was declared that:

1. He recieved the acts of proceedings in the names of the *Police (Inspector Kevin Pulis and Jonathan Cassar) vs. Thomas James Appleby*, on the fourteenth (14) June of the year two thousand and nineteen (2019), and this after the Court of Magistrates (Malta) as a Court of Criminal Inquiry ordered that the acts of proceedings are sent to the applicant in terms of article 392B(1)(a) of Chapter 9 of the Laws of Malta, since the accused Thomas James Appleby, in the sitting held on the fourteenth (14) June of the year two thousand and nineteen (2019), declared that he is guilty of the offences with which he was charged and whcih offences are subject to punishment of more than 12 years imprisonment.

2. Moreover declares that in terms of article 392B(2) of Chapter 9 of the Laws of Malta, the charges proffered against the accused before the Court of Magistrates (Malta) as a Court of Criminal Inquiry and for which charges the accused registered a guilty plea as aforementioned, should be considered as a Bill of Indictment for all intents and purposes of the Law.

Having seen the decree of this Court of the 18th June, 2019 whereby this case was appointed for hearing for the 11th July, 2019.

Considers,

That in view of the declaration of guilt filed by the accused before the Court of Magistrates on the 14th June, 2019, which admission of guilt was reaffirmed by him after having been given due time according to law to re-consider the same.

Declares the accused Thomas James Appleby guilty of having:

On the 12th June, 2019, and/or during the previous months, on these islands;

1. Together with another one or more persons in Malta or outside Malta conspired, promoted constituted organized or financed the conspiracy with other person/s to import, sell or deal in the drug (*cannabis grass*), in these Islands against the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, or promoted, constituted, organized or financed the conspiracy.
2. 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 Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for his personal use.
3. Produced, sold or otherwise dealt with the whole or any portion of the plant Cannabis in terms of section 8(3) of Chapter 101 of the Laws of Malta.

Having seen the acts of the proceedings both in front of the Court of Magistrates and those in front of this Court.

Having heard the evidence with regards to punishment;

Having seen the updated conduct sheet of the accused, which is pristine without the registration of any offence.

Having seen the joint application of the Attoreny General and the accused Thomas James Appleby presented during the sitting of the 14th July, 2020, wherein the parties declared that the punishment that should be inflicted by this Court upon the accused Thomas James Appleby, following the application of article 29 of Chapter 101 of the Laws of Malta by two degrees, the punishment of effective imprisonment for a period of (5) years and six (6) months together with a fine multa of ten thousand Euros (Eur 10,000) and this in addition to any other sanction and/or other consequence resulting from the declaration of guilt and conviction in terms of Chapter 9 and 101 of the Laws of Malta, including the confiscation of all assets and property moveable and immoveables belonging to the same applicant accused Thomas James Appleby.

Considers,

That the defence and the prosecution have agreed with regards to the punishment that is to be inflicted on the accused Thomas James Appleby as indicated in the joint application presented in the acts of these proceedings on the 14th July, 2020.

Consideres,

Having seen the case-law of this Court, specifically in connection with charges of association and trafficking in the drug *cannabis*.

Having heard the testimony of Professor Emmanuel Singara who exhibited his report marked ES in the acts of these proceedings (Dok ES) in front of this Court, wherein he concluded that the alleged substance is *tetrahydrocannabinol*, consisting of:

- Green buds with a total weight of 260g and a purity of ca. 10%
- Green grass with a total weight of 1.68kg and a purity of ca. 10%
- Green grass with a total weight of 140g and a purity of ca. 10%

- Brown Substance with a total weight of 4.9g and a purity of 7%
- Green oily substance with a total weight of ca. 6g and a purity of ca. 70%
- Traces of green grass mixed with tobacco.

According to the conclusion of the expert nominated by the court the total value of the cannabis ranged between €20,000 and €56,000.

Having seen the case-law regarding punishment inflicted when the accused registers an early admission of guilt, particularly: "**Ir-Repubblika ta'Malta vs. Nicholas Azzopardi**"; "**Ir-Repubblika ta' Malta vs. Mario Camilleri**" "**Il-Pulizija vs. Emmanuel Testa**" (kif ukoll il BLACKSTONE'S CRIMINAL PRACTICE (Blackstone Press Limited 2001 edit);

The Court, in this particular case, adheres to the request of the Attoreny General and the accused Thomas James Appleby in their joint application of the 14th July, 2020 and subsequently, after having seen articles 2, 7, 8(d), 8(e), 12, 20, 22(1)(a)(e)(f) (1B)(2)(a)(i)(ii) (3A) (a)(b)(c)(d)(7), 22A, 24A, 26 and 29 of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, regulations 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code, condemns Thomas James Appleby to (5) years and six (6) months imprisonment together with a fine multa of ten thousand Euros (Eur 10,000) which in default of payment will be converted to a further term of imprisonment according to law in terms of article 11 of the Criminal Code.

Moreover, in terms of article 533 of the Criminal Code condemns Thomas James Appleby to pay the sum of one thousand three hundred and seventy one Euros and seven cents (€1,371.07), sum representing the expenses incurred for the Court nominated experts.

If the expenses are not paid within a year from the date of this judgment, they will be converted to a term of imprisonment according to law.

¹ Decided by the Criminal Court of Appeal on the 24th February 1997

² Decided by the Criminal Court of Appeal on the 5th July 2002

³ Decided by the Criminal Court of Appeal on the 17th July 2002

Moreover, orders the forfeiture in favor of the Government of Malta of all the property involved in the said crimes of which they have been found guilty and other moveable and immovable property belonging to the said Thomas James Appleby.

Finally, orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out by the Assistant Registrar of the Criminal Court, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

(ft) Consuelo Scerri Herrera

Judge

TRUE COPY

Franklin Calleja

Deputy Registrar