



# THE CRIMINAL COURT

The Hon. Mr. Justice Aaron M. Bugeja M.A. (Law), LL.D. (melit)

**The Republic of Malta  
vs.  
Kofi Otule FRIDAY**

**The 27th January 2022**

The Court,

Having seen the bill of indictment filed by the Attorney General on the 27th January 2011 bearing number 1 of 2011 whereby **FRIDAY** was accused in terms of the bill of indictment the contents of which are being reproduced here :

The Attorney General, in the name of the Republic of Malta, declares:

The First Count:

The facts of the case:

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 KOFI OTULE FRIDAY 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 KOFI OTULE FRIDAY 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. 1kg). 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 and

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 KOFI OTULE FRIDAY.

In execution of these pre-concerted plans, on the 26th of August 2009 Tony Johnson went to the residence of KOFI OTULE FRIDAY at St. Paul's Bay, Malta and there KOFI OTULE FRIDAY supplied Tony Johnson with an amount of the dangerous drug cocaine. Later that day after his meeting with KOFI OTULE FRIDAY, 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.

The consequences:

By committing the abovementioned acts with criminal intent, AUSTIN UCHE and KOFI OTULE FRIDAY 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.

The accusation:

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 KOFI OTULE FRIDAY of being guilty of having, on the twenty sixth (26<sup>th</sup> 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.

The punishment: -

and 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 favour 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.

The Second Count (preferred only and limitedly against the accused Kofi Otule Friday)

The facts:

That on the twenty sixth (26th) day of August of the year two thousand and nine (2009) and during the previous two years, KOFI OTULE FRIDAY 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 KOFI OTULE FRIDAY at St. Paul's Bay, Malta and there KOFI OTULE FRIDAY procured, supplied and gave Tony Johnson an amount of the dangerous drug cocaine. KOFI OTULE FRIDAY 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. KOFI OTULE FRIDAY 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 KOFI OTULE FRIDAY.

KOFI OTULE FRIDAY 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) KOFI OTULE FRIDAY 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 I of the First Schedule of the Dangerous Drugs Ordinance.

The consequences:

By committing the abovementioned acts with criminal intent, KOFI OTULE FRIDAY 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.

The accusation:

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses KOFI OTULE FRIDAY of being guilty of having, on the twenty sixth (26<sup>th</sup>) 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.

The punishment:

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 records of the proceedings;

Having seen the verdict of the jurors reached today by which the jurors declared as follows:

### **First Count**

The jurors with seven (7) votes in favour and two (2) votes against found the accused guilty according to the First Count of the bill of Indictment.

### **Second Count**

The jurors with seven (7) votes in favour and two (2) votes against found the accused guilty according to the Second Count of the bill of Indictment.

Accordingly, this Court finds Kofi Otule FRIDAY guilty :

1. Of having on the twenty sixth (26th) day of August two thousand and nine (2009) and in the two years prior to that date, rendered himself guilty of conspiracy to deal, offer, supply and distribute in dangerous drugs (cocaine) in breach of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or of promoting, constituting, organising or financing the conspiracy;
2. Of having on the twenty sixth (26th) day of August two thousand and nine (2009) and in the two years prior to that date supplied, distributed and procured or otherwise dealt in a dangerous drug (cocaine) without a license by the Minister responsible for Health or

without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (cocaine), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Part IV and Part VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same.

Having seen the updated criminal conviction sheet of FRIDAY filed by the Prosecution upon the specific order of the Court, duly inspected by Defence Counsel;

Having heard and considered the submissions made by Defence Counsel regarding the punishment to be meted out in the circumstances of this case, which submissions are all registered and can be verified with the transcript of the same, and which include the following :

1. The length of time that these proceedings took to reach trial stage. More than twelve years elapsed since the accused was arraigned. This Court had to give adequate consideration to the fact that no monetary compensation that may be given by other fora would be sufficient to make good for this delay in arriving at the conclusion of these proceedings against the accused. It was completely wrong for the Prosecution of this case to take this long to the detriment of Justice in this case.
2. The Court must take into consideration the case of co-accused Austin Uche who on the 10th March 2020 was sentenced by this Court to five years imprisonment and to a fine of seven thousand euro (€7000).

Having heard and considered the submissions made by Prosecution Counsel regarding the punishment to be meted out in the circumstances of this case, which submissions are all registered and can be verified with the transcript of the same, and which include the following :

1. This judgment that was delivered in Austin Uche's case could have no bearing on this case since Uche decided to register a guilty plea, apart from the fact that he was only accused with the conspiracy to deal in cocaine. On the otherhand the accused was also charged, and found guilty of supplying or distributing the drug cocaine.

Therefore the case against the accused was more serious than that against Austin Uche.

2. It was true that a considerable period of time elapsed since arraignment. Yet this lapse of time on its own was not enough to justify a shorter prison sentence against the convict. The Prosecution quoted from **Il-Pulizija vs. Joseph Cutajar** decided by the Court of Criminal Appeal on the 29th October 2009 as well as **Il-Pulizija vs. Charles Muscat** decided by the Court of Criminal Appeal on the 9th May 2002 and other cases about this matter;
3. Furthermore, this Court had to take into consideration other cases dealing with similar accusations that were decided following a trial by jury such as **Ir-Repubblika ta' Malta vs. Norman Bezzina** decided by this Court differently presided on the 9th October 2010 and confirmed by the Court of Criminal Appeal on the 20th February 2014; as well as **Ir-Repubblika ta' Malta vs. Ikechukwu Stephen Egbo** decided by this Court differently presided on the 22nd July 2017.
4. Furthermore the jury verdict was not a minimum verdict.

Having seen other cases **The Republic of Malta vs. Pascal Okafor** decided by this Court differently presided on the 21st February 2011, **The Republic of Malta vs. Tony Johnson** decided by this Court differently presided on the 30th January 2013 as well as the judgment in the case **The Republic of Malta vs. Austin Uche** decided by this Court differently presided on the 10th March 2020;

Having also seen other cases involving similar crimes which were decided by this Court following a trial by jury, apart those mentioned by the Attorney General and which include: **The Republic of Malta vs. Janis Boruss** decided by this Court differently presided on the 27th November 2012, **The Republic of Malta vs. Kingsley Wilcox**, decided by this Court differently presided on the 8th April 2017, **Ir-Repubblika ta' Malta vs. John Grima** of the 3rd October 2018 decided by the Court of Criminal Appeal.

This Court notes that this case mostly resembles the one against **Kingsley Wilcox**. In that case Wilcox was sentenced to the punishment of imprisonment for fifteen (15) years together with a fine of thirty thousand euro (€30,000) after having been convicted for the crimes of conspiracy to deal in cocaine and dealing in the drug cocaine whose total weight was of 1085.2 grams with a purity of 36.8%.

This Court however notes that in this present case the total amount of drug cocaine seized was slightly lower (949.13 grams) as was the percentage purity (33.7%). Yet, this Court cannot fail to notice that the case against Wilcox was decided much earlier than this present case and those proceedings were much more expeditious.

Consequently, the Court, having seen Articles 2, 9, 10(1), 12, 13, 14, 15, 15A, 16, 17, 18, 22(1)(a)(f)(1A)(1B)(2)(a)(i) the proviso (aa), (3A)(a)(b)(c)(d)(7), 22(A), 24A and 26 of Chapter 101 of the Laws of Malta as well as Regulations 2, 4, 9 u 16 of Subsidiary Legislation 101.02, and articles 17, 23, 23A, 23B, 23C, and 533 of the Criminal Code condemns the accused to the punishment of **imprisonment for thirteen years**, as well as to pay the fine of **thirty thousand euro (€30,000)**, together with the payment of one third of the costs incurred by the experts in their reports in this case amounting to the sum of eight hundred and forty three euro forty two cents (€843.42).

Moreover the Court orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which Kofi Otule FRIDAY has been found guilty and all other moveable and immovable property belonging to the said Kofi Otule FRIDAY.

In terms of article 22E of the Criminal Code, the Court orders the destruction of the drugs exhibited in this case under the supervision of the Registrar.

**Aaron M. Bugeja**  
**Judge**