



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

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

**Case Number: 239/2021**

**THE REPUBLIC OF MALTA**

**-Vs-**

**OLIVER CHAMBERLINE CHIBUIKE**

*Omissis 1*

*Omissis 2*

**Today, 27th November 2023**

**The Court,**

Having seen the charges brought against **OLIVER CHAMBERLINE CHIBUIKE**, born in Nigeria on the third (3rd) of July 1982, residing at Paradise, Fl 4, Harifa Street, St. Paul's Bay SPB 03, and holder of Maltese Identity Card number 0395316L, and against *Omissis 1* and *Omissis 2*, who were charged with having in these Islands, during the months of January, February, and March of the year two thousand and nineteen (2019), by several acts done by them even at different times, and in breach of the same provisions of Law, and made by a single resolution:-

1. Committed acts of money laundering by:

- i. Converted or transferred property knowing or suspecting that such property is derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal activity:
  - ii. concealed or disguised the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property was derived directly or indirectly from criminal activity or from an act of participation in criminal activity:
  - iii. acquired, possessed or used property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity:
  - iv. retained without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity:
  - v. attempted any of the matters or activities defined in the above foregoing subparagraph (i), (ii), and (iv) within the meaning of article 41 of the Criminal Code:
  - vi. Acted as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing subparagraphs (i), (ii), (iii), (iv) and (v);
2. And also in the same date, time, place and circumstances, in Malta knowingly received or purchased and property which was stolen, misapplied or obtained by means of any offence, whether committed in Malta or abroad, or knowingly took part, in any manner whatsoever, in the sale or disposal of the same:

And we hereby also charge *-omissis-*, with breaching his bail conditions which were

imposed on him by a decree dated 11 August 2017 and revised by a decree dated 28 May 2018 issued by Magistrate Dr Nathasha Galea Sciberras in the case ‘The Police vs Eguaveon Collins’

This Court was kindly requested that in case of guilt, in addition to inflicting the penalties laid down in the Law and in addition to the said punishment, it also order the confiscation of all the exhibited goods, of the corpus delicti and the instruments which served or were intended to be used to commit the crime, and of all that has been contained by the crime, as well as order the confiscation in favor of the Government of the proceeds offense or of such property the value of which corresponds to the value of such proceeds as well a of all the property of the accused of Chapter 373 as well as articles 23 and 23B of the Criminal Code:

This Court was also requested to seize from third parties in general all moneys and movable or immovable property which are due to or pertain to the accused or are their property, as well as prohibiting them from transferring or otherwise disposing of any movable or immovable property in terms of article 5 of Chapter 373 even as applicable under article 23A of Chapter 9:

The Court was also requested to order in case of guilt, the accused to pay costs related to the appointment of experts in the proceedings as contemplated in article 533 of Chapter 9 of the Laws of Malta.

Having seen the respective orders given by the Attorney General on the 18th April 2021 in terms of subarticle 2A(a) of Article 3 of the Prevention of Money Laundering Act (Cap. 373 of the Laws of Malta)<sup>1</sup>, that the persons accused, Oliver Chamberline Chibuike, *Omissis 1* and *Omissis 2*, are brought before the Criminal Court in order to answer for the charges brought against them for the breach of the provisions of the said Act.

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<sup>1</sup> Dok. SZ9, Dok. SZ7 and Dok. SZ11, respectively.

Having seen the decree dated 18th April 2021 whereby the proceedings were ordered to be conducted in the English language;

Having heard the Prosecuting Officers read out and confirm the charges on oath;

Having heard the persons accused plead not guilty during their arraignment on the 18<sup>th</sup> April 2021;

Having seen the Order issued on the 18th April 2021 for the purposes of article 5 of Chapter 373 of the Laws of Malta, and articles 23A and 23D of the Criminal Code;

Having seen the decree dated 30th June 2021 in virtue of which the trial in respect of the *Omissis 1* on the one hand, and the accused and *Omissis 2* on the other hand, was ordered to continue separately;

Having seen the decree dated 11th January 2022 in virtue of which the trial in respect of the accused person was ordered to continue separately from the trial of *Omissis 2*;

Having seen the counter-order issued by the Attorney General on the 25th February 2022 in terms of subarticle 2A(b)(c) of article 3 of the Prevention of Money Laundering Act (Cap. 373) ordering that the accused person is tried before the Court of Magistrates (Malta) as a Court of Criminal Judicature, in respect of the charges brought against him for the breach of the provisions of the said Act;

Having seen that in virtue of the same note, the Attorney General also sent the accused for trial by this Court in terms of article 370(3)(a) of the Criminal Code in respect of the crimes prescribed in terms of:-

- (a) Article 334 of Chapter 9 of the Laws of Malta;
- (b) Article 17, 18, 23, 23A, 23B, 28H, 31, 532A and 533 of Chapter 9 of the Laws of Malta.

Having heard the accused declare during the hearing of the 12th October 2022 that he has no objection that his case is tried and decided summarily by this Court as a Court of Criminal Judicature;

Having heard the defendant during the same hearing of the 12th October 2022 plead guilty to all charges brought against him;

Having heard the person accused confirm his guilty plea even after the Court warned him in the most solemn manner of the legal consequences of his guilty plea, and after having clearly explained to him the consequences of a declaration of guilt and the punishment applicable in the event of a finding of guilt, as well as after having given him sufficient time within which to reconsider and withdraw his guilty plea and to consult with his lawyer;

Having seen that by virtue of a decree given on the 12th October 2022, the accused person's request that a pre-sentencing report is drawn up in his regard, was acceded to;

Having seen the pre-sentencing report drawn up and presented by the Probation Office, Marilyn Attard, on the 3rd of March 2023 (Dok. MF);

Having seen that this cause was assigned to this Court as presently presided by virtue of a decree issued by the Chief Justice on the 3rd October 2023;

Having heard the Prosecution and the defence during the hearing of the 16th November 2023, exempt the Court as presently presided from hearing all witnesses who already testified before the Court when it was differently presided;

Having seen the statement released by the accused person during his interrogation on the 17<sup>th</sup> April 2021<sup>2</sup>;

Having seen all the evidence, transcripts of testimonies and documents produced as part of the record of proceedings;

Having heard the final oral submissions of the Prosecution and the defence regarding punishment, during the hearing of the 16th November 2023;

Having seen all the acts forming part of the record of proceedings;

Having considered;

The accused person is charged with the crime of money laundering and also the crime receipt of stolen property.

The facts of the case as would result from an examination of the evidence brought forward by the Prosecution prior to the accused person having registered a guilty plea, by the Prosecution are as follows. On the 16th December 2018 Attilia Attard recieved a friend request on Facebook brom a Facebook account with profile name “Victor Scarlett” claiming that he was a US soldier stationed with the US Army in Syria. They began to communicate and subsequently, communication between them continued by means of messages and daily phonecalls over several hours via Whatsapp on the number she was provided, and a personal relationship developed. Eventually “Victor Scarlett” requested that she correspond with his Commander Jack Wilson on [com.wilsonjackusmilitary89@gmail.com](mailto:com.wilsonjackusmilitary89@gmail.com) in order that he would be granted leave from his post in Syria and allowed to come to visit her in Malta. She complied and sent an email as requested and by way of reply from a person who purported to be Commander Jack Wilson, she was told that she would need to pay in order that her

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<sup>2</sup> Transcript Dok. MTT.

fiance' would be granted clearance to travel to Malta as well as for his travel arrangements and expenses. Victor explained to her that he could not use his own money as a soldier deployed abroad. Commander Wilson also eventually told her that since her fiance' was effectively applying for emergency leave, his taxes, amounting to over €20,000, would need to be cleared. This person directed her what payments to make and to whom and she complied. Eventually, when Commander Wilson asked her to send more monies and she refused since she had exhausted all her funds, he informed her that they would be unable to send her fiance' to Malta.

In all, Attilia Attard was asked to transfer and effectively transferred the total sum of circa €27,000 by means of six separate transactions to the accused, Oliver Chamberline Chibuike, *Omissis 1* and *Omissis 2*:

- The sum of \$2,850 on the 14th January 2019 from her bank account bearing number 14806089020 held at Bank of Valletta plc, to Revolut account number GB90REV00997078140052 in the name of *Omissis 2*. Once converted into Euro, the sum of €2,430 was received into this Revolut account on the 16th January 2019;
- The sum of \$4,500 on the 15th January 2019 from her bank account bearing number 14806089020 held at Bank of Valletta plc, to Revolut account number GB90REV00(997074385719)7077438571 in the name of *Omissis 1*;
- The sum of €10,002.91 on the 22nd February 2019 - made up of one payment of €5,000 pertaining to Attilia Attard<sup>3</sup> and another payment of €5,002.91 pertaining to her son Zane Attard<sup>4</sup> – deposited directly into bank account number 073091241050 in the name of the accused, Oliver Chamberline Chibuike, with HSBC Bank Malta plc by means of a bank draft bearing number 395157 payable to said accused person<sup>5</sup>;

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<sup>3</sup> See withdrawal of €5,000 on 22nd February 2019, Dok. AA3, pagna 240 tal-atti tal-kawża..

<sup>4</sup> Dok. AA3, page 239 of the record of proceedings and also page 284.

<sup>5</sup> Dok. AA2 and corresponding Dok. AA3, see also page 285: Withdrawal from bank account number 40022376688 "Attilia Attard A/C Zane Attard".

- The sum of €5,000 on the 9th March 2019 transferred by SEPA payment from Bank of Valletta plc IBAN number MT59VALL2201300000040020446646 pertaining to Mark Anthony Gerada to HSBC bank account number 049040546050 in the name of *Omissis 1*, received in said account on the 11th March 2019;
- The sum of €350 on the 9th March 2019 by means of SEPA payment from bank account number 4002044664-6 pertaining to Mark Anthony Gerada to HSBC bank account number MT51MMEB44495000000049040546050 in the name of *Omissis 1*, credited to said account on the 12th March 2019;
- The sum of €5,000 deposited in cash at the Qormi Branch of HSBC Bank (Malta) plc on the 8th March 2019 by Marlon Bugeja into HSBC bank account number 049-040546-050 in the name of *Omissis 1*.

Having considered;

It is undisputed common ground that the sum of ten thousand and two Euro and ninety one cents (€10,002.91) was received into and withdrawn from, Oliver Chamberline Chibuike's bank account with HSBC Bank (Malta) plc and it also results that these funds were received as a direct result of criminal activity, that is fraud. It was not alleged by the Prosecution that the accused was the person or persons communicating with Attilia Attard via email, that is, Commander Wilson Jack, Victor Scarlett or Ahmed Cole and in any event, this does not result from the evidence adduced. In fact, the accused is not charged with complicity in the fraudulent scheme that led Attilia Attard to transfer her money into his bank account held with HSBC Bank (Malta) plc, but is charged with receiving property derived from this fraudulent scheme or having knowingly taken part, in any manner whatsoever, in the disposal of the same property, as envisaged in article 334 of the Criminal Code, as well as with acquiring, possessing, retaining, converting and transferring such property in breach of the provisions of the Prevention of Money Laundering Act.



The accused pleaded guilty as charged to the crime of money laundering and receiving property which was obtained by means of a criminal offence in terms of article 334 of the Criminal Code, specifically under paragraph (c), since the property was obtained by fraud.

For purposes of punishment the Court cannot fail to take into account the fact that the accused acted in concert with third parties in a fraudulent scheme that caused much suffering and hardship to Attilia Attard, the victim of the crimes, who ended up penniless simply because the perpetrators of this fraudulent scheme exploited and preyed on her generosity and kindness for their own personal and unlawful gain. The amount which the accused received fraudulently into his bank account, in the sum of €10,000, is also a significant amount.

Although the accused claimed in his interrogation and insisted to the Probation Officer for the purposes of the pre-sentencing report, that he was not aware that he was committing one or more crimes when he accepted to receive into his bank account, the monies that Attilia Attard was duped into parting with, the Court will not enter into the merits of the formal element of the crime since the accused ultimately registered a guilty plea.

However the Court will take into account the fact that, as would result from the pre-sentencing report, the accused appears to be a hard-working and educated family man who has a clean criminal record and a stable working and family life, and does not appear to have any negative issues that need to be addressed or which require supervision of any form. Indeed it appears that this episode was an isolated case of criminal behaviour.

The Court also took into account the fact that the Prosecution submitted that a punishment of effective imprisonment is not being sought in this case, and also considered the recommendation of the Probation Officer that the accused is awarded a suspended sentence of imprisonment. Evidently, this recommendation was made by

the Probation Officer, at least partly, on the back of the suggestion of the Prosecuting Officer that in similar cases concerning the offence of money laundering, the punishment imposed is generally that of a suspended sentence.

Due weight must be given also to the fact that the accused at a very early stage of the proceedings, that is at the first hearing post-arraignment, fully reimbursed the victim by repaying the entire sum of €10,000 which was received into his account and disposed of.

However, the Court must observe that the defence is not correct in its submission that the accused reimbursed the victim prior to the inception of criminal proceedings and consequently, he cannot benefit from any mandatory diminution of punishment in terms of article 337(1) of the Criminal Code because, as already pointed out, the damage caused by the offender was fully made good not previously to his arraignment on the 18th April 2021, but only subsequently, on the 28th April 2021<sup>6</sup>. Consequently, upon application of article 334(3) of the Criminal Code – since the property unlawfully received by the accused was obtained by fraud – the Court must apply the provisions of article 308 or 309, and 310 of the Criminal Code for purposes of calculating the punishment for the crime of receiving property obtained by means of an offence. Moreover, since the amount of the damage caused by the accused to the detriment of Attilia Attard, exceeds the five thousand Euro (€5,000), the applicable punishment shall be that prescribed by article 310(1)(a) of the Criminal Code, that is imprisonment from two to nine years. This means that the provisions of the Probation Act (Chapter 446) are not applicable in this case since the offence is punishable with imprisonment for a term that exceeds seven years and no circumstances which merit the placing of the offender under a probation order, were shown to exist.

However, the Court shall apply the punishment of imprisonment in its very minimum due to the accused's positive personal circumstances, his clean criminal conduct and the fact that he has reimbursed the victim at a very early stage of the proceedings.

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<sup>6</sup> Article 337(3) of the Criminal Code, which refers to subarticle (2), applies only to cases of theft, not fraud.

Then, for the purposes of punishment for the offence of money laundering in terms of article 3(2A)(a)(ii) of the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, which was offence also committed separately from the crime under article 334 of the Criminal Code, the Court chooses to apply only the fine and not also a punishment of imprisonment.

**In view of the above, the Court, after having seen articles 310(1)(a) and 334 of the Criminal Code, Chapter 9 of the Laws of Malta and articles 2(1) and 3(2A)(a)(ii) of The Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, finds OLIVER CHAMBERLINE CHIBUIKE, upon his own admission, guilty as charged and sentences him to two (2) years imprisonment, however, upon application of article 28A of the Criminal Code, Chapter 9 of the Laws of Malta, orders that such sentence shall not take effect unless, during a period of three (3) years, the offender commits another offence punishable with imprisonment. Condemns him also to a fine (*multa*) of twenty thousand Euro (€20,000), which upon application of article 14 of the Criminal Code, Chapter 9 of the Laws of Malta, shall be paid within a term not exceeding two (2) years.**

**For the purposes of article 28A(4) of the Criminal Code, the Court explained to the offender in ordinary language his liability under article 28B of the Criminal Code, if during the operational period he commits an offence punishable with imprisonment.**

**Since the victim has been fully compensated by the offender, the Court chooses not to apply the provisions of article 23B of the Criminal Code and article 3(5)(a) of the Money Laundering Act, Chapter 373 of the Laws of Malta, and consequently it shall not order the forfeiture in favour of the Government of the proceeds or of such property the value of which corresponds to the value of such proceeds of the crime unlawfully received by the offender.**

**Upon application of article 3(7) of the Prevention of Money Laundering Act, Chapter 373 Laws of Malta, which refers also to article 22(3A)(b)(d)(7) of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, orders the forfeiture in favour of the Government of all moneys or other movable property, and of the entire immovable property of OLIVER CHAMBERLINE CHIBUIKE even if the immovable property has since passed into the hands of third parties, and even if the said monies, movable property or immovable property are situated in any place outside Malta.**

**In terms of Article 533 of the Criminal Code, Chapter 9 of the Laws of Malta, orders OLIVER CHAMBERLINE CHIBUIKE pay to the Registrar of Court the sum of five hundred and forty Euro (€540) representing one third (1/3) of the sum paid in connection with the employment of Keith Cutajar as court expert in these proceedings<sup>7</sup>, within six (6) months.**

**Orders that a copy of this judgement is served on the Registrar of Courts for the purposes of article 28A(8) and article 533 of the Criminal Code and also for the purposes of article 19(1) of Chapter 621 of the Laws of Malta.**

**DR. RACHEL MONTEBELLO  
MAGISTRATE.**

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<sup>7</sup> Dok. KC; see page 997 of the record of the proceedings.