Qorti tal-Magistrati (Malta)

Bhala Qorti ta' Gudikatura Kriminali

Magistrat Dr. Yana Micallef Stafrace LL.D.

Il-Pulizija

Spettur Charlotte Curmi

Vs

Jerome Farrugia

Seduta Kollizzjonijiet

Illum: 4 ta' Dicembru, 2023

Il-Qorti

Rat l-imputazzjonijiet fil-konfront ta' Jerome Farrugia ID 256154(M) iben Anthony u Rose nee Saliba imwieled Qormi fil-14/2/1954 u joqghod 1, Sqaq Ghar il-Gobon, B'Kara talli fit-3 ta' Frar, 2019 ghall-habta ta' 12:40 hrs go Triq is-Salina, Naxxar talli

1. Soqt l-vettura IAE 468 b'manjiera perikoluza.
2. Soqt l-vettura IAE 468 b'manjiera traskurata.

3. B’nuqqas ta’ hsieb , bi traskuragni , jew b’nuqqas ta’ hila fl-arti jew professjoni , jew b’nuqqas ta’ tharis ta’ regolamenti tat-traffiku ikkagunajt offiza ta’ natura gravi fuq il-persuna ta’ Damien Xuereb u kkagunajtlu offiza ta’ natura hafifa skond kif iccertifika Dr P Sammut MD mill-MDH.

Il-Prosekluzzjoni titlob li tigi skwalifikat mill-licenzji kollha tieghek tas-sewqan ghal perijodui taz-zmien li l-Qorti jidhrilha xieraq.

Rat l-artikoli Kap 65 15(1)(a) (2) (3), Kap 9 226(1) (c) tal-Ligijiet ta’ Malta.

Semghet x-xhiedha kollha prodotti mill-Prosekuzzjoni.

Semghet l-imputati u x-xhieda prodotta minnhom.

Rat l-atti kollha u d-dokumenti kollha ezibiti.

Semghet it-trattazzjoni.

Rat li l-kawza giet differita ghas-sentenza.

Kunsiderazzjonijiet

Claudia Anastasi,xehdet hekk:

Pros: Mela sinjura inti ftit taz-zmien kwazi snin ilu kont xhud kont hemmekk prezenti waqt kolluzzjoni tista tisjegalna wahda x`rajt u ma rajtx ibda pass pass tafx id-data.

Xhud: Naf li kien zgur wara nofs in-nhar ghax kont qed insuq lejn party tat-tfal kont tielgha it-triq lejn t`Alla u ommu.

Avu: Igifieri inti gejja direzzjoni,

Xhud: Sejra lejn t`Alla u ommu minn San Pawl,

Avu: Igifieri San Pawl direzzjoni lejn Naxxar?

Xhud: Ezatt.

Avu: Titla it-telgha.

Xhud: Ezatt, u malli qed insuq dak il-hin nara karozza u mutur ma l-art bniedem ovvjament ghadu,

Qorti: Igifieri inti l-incident ma rajtux?

Xhud: No wasalt nahseb malli kien ghadu jasal, malli kien ghadu jigri, ghax jiena ovvjament umbaghad hrigt mil-karozza malli rajtu ghadu mal-mutur.

Pros: Igifieir ejja nibdew pass pass intiqed tghdilna kont tielgha it-telgha?

Xhud: Le ma kontx tielgha it-telgha kont qeghda fejn dawk il-Farmhouses half way t`Alla u Ommu.

Pros: Issa u inti x`rajt ezatt?

Xhud: Malli ha naghddi kien hemm karozza u mutur ma l-art u kien jidher li qisu nahseb kien ghadu jigri ghax it was still very movimented.

Pros: Tista tghidilna il-karozza u l-mutur kif kienu ma liema karreggata eccetra?

Xhud: They were on the lane coming towards San Pawl lejn Naxxar.

Avu: Igifieri kontra tieghek mela?

Xhud: Kontra tieghi,

Avu: Huma nezlin minn Naxxar direzzjoni Bugibba?

Xhud: Ezatt konna qeghdin hekk ahna u l-mutur kien quddiem il-karozza u hu kien ghadu mwahhal mal-mutur.

Avu: Hu min?

Xhud: Il-vittma.

Pros: Qed taraf il xi hadd hawnekk gewwa l-awla?

Avu: Liem wiehed sinjura tad-daqqna jew ta bla daqqna?

Xhud: Tad-daqna kien tal-mutur zgur.

Avu: Igifieri qed taraf l-imputat Damien Xuereb.

Qorti: Imma inti kif gara u kif spiccaw hekk ma tafx?

Xhud: Le jiena waqaft dak il-hin.

Qorti: Iva imma kif gara l-incident u kif spiccaw hekk ma tafx?

Xhud: No.

Pros: Inti forsi waqaft tkellem il xi hadd?

Xhud: Le jiena hrigt nigri biex nghin ghax malli hrigt mil-karozza min kien fil-karozza hareg u hareg b`xi haga f`idu b`xi hadd hareg mieghu mara tampar l-eta ta dan il-bniedem and they very aggressive towards the person under the bike very aggressive.

Pros: Il-persuni li qed tghid hargu mil-vettura tista tghidilna min kienu?

Xhud: Naf li kienu ragel u mara mhux anzjani imma ta ` certu eta`.

Pros: Issa inti semmejt li kien hemm vettura tista tghidilna din il-vettura x`ghamla hi?

Xhud: No ma niftakarx, niftakar kif graw l-affarijiet imma ma niftakarx l`ghamla tal-karozza.

Pros: Dan bejn wiehed u iehor kemm ilu sehh dan l-incident?

Xhud: Nahseb 2 or 3 years mill-anqas.

Avu: Qabel il-Covid?

Xhud: Qed nikkalkula l-eta` tat-tfal bejn wiehed u iehor possibly before Covid.

Avu: Jien xejn aktar minn naha tieghi.

Avu: Ara sinjura inti u tixhed kont qed taghmel certu mossa b`referenza ghax–xufier tal-mutur kont qed tiggenneb x`qed tifhem biha jekk jogghbok?

Xhud: What`s that mean?

Avu: Heq you were leaning fix-xhieda tieghek kont titghawweg inti u tixhed kont qed tghidilna rajt bniedem fuq il-mutur u bdejt,

Xhud: Because it`s not a nice sight to see a man under a motorbike.

Avu: A man under a motorbike x`qed tihem biha jekk jogghbok? Igifieri ejja nimxu pass pass mela ghandek il-karozza wieqfa naqblu s`hemm?

Xhud: Yes.

Avu: Il-mutur maqlub kien fejn? Fil-genb tal-karozza?

Xhud: Ezatt, no quddiem il-karozza.

Avu: Issa meta qed tghid il-mutur fuq quddiem tal-karozza wieqaf jew mal-art?

Xhud: Ma l-art ghalekk qed naghmillek hekk.

Avu: Ma l-art, u ix-xufier tal-mutur kif kien?

Xhud: Kien ghadu I mean he was slightly holding on to it and someone pushed him off of the sort he was still holding on to his … …

Avu: Ix-xufier tal-mutur kien ghadu bilqeghda fuq il-mutur pero ma l-art?

Xhud: Kind of yes.

Avu: Sewwa wisq issa l-karozza kienet wara tal-mutur fuq il-mutur, il-mutur tahta kif kien?

Xhud: No I would say touching for sure kienu tajjeb mhux li telgha fuqha.

Avu: Sewwa wisq, issa ara jekk jogghbok semmejt illi l-vettura hargu gixx persuni ragel u mara u ghedtilna ir-ragel kellu xi haga f`idejh x`kienet din il-formola tal-bumper to bumper?

Xhud: No it was something he wanted to hit the person with but I don’t remember what it was I remember the body movement more and that I was trying to calm him down not to hit the man who was still under the motorbike ghax jiena dan at that point kont hemm jiena biss kelli t-tfal fil-karozza ma nafx jekk hux haj jew mejjet imma ma nafx il-bniedem min hu bil-full face you know u calmly I was trying to say like x`qed taghmlu.

Avu: Igifieir ix-xufier tal-vettura hareg ghalih b`xi haga u ried isawwtu?

Xhud: Yes and there was someone else with him and couraging him li dak il-hin,

Avu: Is-someone else hija l-marabiex nifthemu kien hemm?

Xhud: Yes ma stajtx nifhimha nghidlek il-verita and I probably I have might reacted more but.

Avu: Issa jekk jogghbok sinjura gentilment meta allura issa inti qed tara dan ir-ragel b`xi haga f`idu u liridt ihebb ghalih u l-mara theggu inti lix-xufier tal-mutur kellimtu?

Xhud: Ma nahsibx li kont ghadni kellimtu dak il-hin naf li hin minnhom beda jiccaqlaq u jipprova inehhi the full head and I was telling him no because I don’t know if you`re injured just stay put and don’t move in the meantime naf li bdew jieqfu nies imma m`ghandix idea min kienu naf li the 2 aggressors whatever you would call them waqt li jiena qed nipprova jiena naghjjat maghhom qed narah qed jipprova jnehhi l-visor I don’t know what happened I went back to the person with the bike nahseb someone else must have continued with a them umbaghad nehha l-helmet he tried to get up, the same I tried to tell him do not because pero he went to the side of the pavement and in the meantime other people came ma nafx jekk kienux pulizija ambulanza ma nafx kont imfixxkla ovvajment.

Avu: Il-pulizija kellimthom inti sinjura cempiltilhom inti?

Xhud: Kelmuni huma meta gew dak il-hin haduli d-dettalji.

Avu: Kellmuk huma onsite?

Xhud: Yes then I continued my way no no xi hadd kien ga cempel min kellu jcempel.

Avu: U allura il-pulizija hadulek id-dettalji tieghek?

Xhud: Ezatt u ghalhekk gejt hawn.

Avu: Xejn aktar mix-xhud sinjura, l-ahhar domanda jekk jogghbok sinjura gentilment ghalli jista jkun il-mutur maqlub mal-art ma tiftakarx jekk hux kien maqlub on the left jew on the right uu?

Xhud: I`m not sure so I better not answer.

Avu: Mhux problema, issa semmejtilna ukoll l-ewwel l-Ispettur qaltlek mela kontu qeghdin fit-telgha u int ghedtilha le fejn hemm il-Farmhouses igifieri ghandi nifhem illi it-triq hija dik il-parti dritta?

Xhud: Ezatt.

Avu: Qabel jew wara fejn hemm il-Ballards fin-nofs jekk jogghbok?

Xhud: There`s a really old … I can`t tell you if there`s ballards or not it might be ballards now but I`m not sure if there were ballards at the time.

Avu: Grazzi, u t-triq il-parti id-dritta?

Xhud: Yes.

Avu: Xejn aktar mix-xhud. Thank you.

<u>Alfred Cassar,xehed permezz ta’ affidavit dwar l-involviment tieghu f’dan il-kas u viva voce xehed hekk</u>

Pros: Mela dan qeghdin nitkellmu fuq incident tat-2019 dak iz-zmien inti x`kariga kellek?

Xhud: Jien kont surgent stazzjonat l-ghassa Naxxar.

Pros: U xnumru ta spalltek kellek?

Xhud: 894.

Pros: Mela issa ghidilna ezattament probabbli telgha jixhed dwar xi footage?

Xhud: Ma kienx hemm footage jiena li hadt ghamilt ir-rapport u hadt l-istqarrija taghhom taz-zewg xufiera.

Pros: Mela jista jezebixxi ir-rapport tal-pulizija.

Pros: Qed norik ir-rapport tal-pulizija immarkat bhala 8S248/2019 tista tghidlina jekk dan sarx minnek jekk gahndek xi haga ohra xi zzid jew tnaqqas minn dan?

Xhud: Ehe dan sar l-ghassa Naxxar.

Qorti: X`igifieir dan sar l-ghassa Naxxar igifiri ghamiltu int?

Xhud: Ir-rapport naghmluh l-ghassa in-Naxxar.

Qorti: Imma l-investigazzjoni ghamiltha int?

Xhud: Iva.

Pros: Ghandek xi haga xi zzid jew tnaqqas ma dan?

Xhud: Le.

Pros: Xejn aktar mix-xhud.

Qorti: Kontro Ezami?

Avu: Minn naha tieghi m`ghandix.

<u>Damien Xuereb,xehed hekk</u>

Qorti: X`ha tghidilna sinjur?

Avu: Mea sur Xuereb dan l-incident meta gara?

Xhud: February 2019.

Avu: Sewwa tiftakar il-gurnata bejn wiehed u iehor?

Xhud: The first week jekk niftakar sew at around 12 o`clock.

Avu: Ma gara xejn mela u fejn sehh l-incident?

Xhud: The scene bdiet fin-nizla t`Alla u ommu jiena kont niezel in-nizla t`Alla u ommu kif qbizt l-ewwel roundabout kien hemm karozza kienet ghadejja nahseb xi 40 km per hour 50 km per hour jiena gejt warajha.

Avu: Inti qed issuq xiex?

Pros: Jiena kont qed insuq mutur tieghi u il-karozza bdiet gradually slowing down it-triq kienet kompletament vojta both lanes u wara li l-karozza ta` quddiem bdiet tisslowja hafna igifieri din waqet qisu jekk niftakar sew qisu 20 km per hour jien bdejt nghid ghalfejn qed jisslowja ghalxejn b`xejn ghedt ha naqilghu kien hemm enough space I made sure that I stayed on the right carriage way qlajtu bilmod u kif qlajtu at a very speed I heard him smajtu jinsultani genetikament igifieri kontra tal-muturi jien ili 30 years insuq mutur insuqhom kuljum igifieri kien l-ewwel darba li grali xi haga hekk, komplejt naqilghu kif gejt mal-parti ta quddiem tal-karozza dan ghafas mieghi u ghafasni ghajjat indahhlek gol-bankina.

<u>Jerome Farrugia, xehed hekk</u>

Avu: Mela sur Farrugia spjega bilmod x`gara f`dan l-incident x`kien l-involviment tieghek u x`gara u x`kellek x`taqsam mas-sinjura prezenti fl-awla?

Xhud: Kont ghaddej minn Burmarrad ghas-Salina bil-karozza f`hin wiehed qabizli wiehed bil-mutur konnha jiena u l-mara,

Abvu: X`karozza kellek?

Xhud: Honda.

Avu: Number plate tafu?

Xhud: L-ittri ma nafux imma numru nafu 468, umbagahd filli konnha ghaddejin gie wiehed bil-mutur minn warajja qabizni gie quddiemi hekk nizel minn fuq il-mutur,

Qorti: X`igifieri gie quddiemek hekk?

Xhud: Gie quddiemi bil-mutur quddiem il-karozza tieghi u jiena waqaft umbaghad nizle minn fuq il-mutur gie hdejja hdejn il-bieba u tani 3 daqqiet ta` ponn go wicci minghajr ma qalli ghalxiex u mhux ghalxiex jien hsibtu gej ikellimni.

Avu: Dal-mutur taf tiddeskrivieh ghadek tiftakar?

Xhud: Le xejn ma nafx xejn.

Avu: Issa das-sinjur li qed tghid gie mal-bieba tarfu hawnekk?

Xhud: Hemm qieghed hdejja kien.

Qorti: Ix-xhud indika lil imputat Damien Xuereb.

Avu: Issa das-sinjur x`qallek u x`ghamel?

Xhud: Xejn gie ma genbi bil-crash helmet go rasu nizel minn fuq il-mutur gie hdejja tani zewg daqqiet ta` ponn u telaq u

jien minghalija kien ha jitlaq u qlibtu bil-mutur umbaghad heddidna lili l-mara li kif jaghddilu joqtolna qal umabghad giet l-ambulanza giet ghalih u surgent ried igibha ghalija imma ma kelli xejn gravi hlief go wicci.

Avu: Issa ta` dan l-incident ghandek xi ritratti jew ipprezentajt xi filmati lil pulizija?

Xhud: Ghandikun ma kontx urejthomlom lil pulizija.

Avu: Hawnekk gahndek xi dokumenti x`inhuma?

Xhud: Dawk ritratti ta dak in-nhar.

Qorti: Mela DOK JF sa JF2.

Avu: Dawn ir-ritratti min hadhom sinjur?

Xhud: It-tifel.

Avu: Mela JF3 ritratt iehor?

Xhud: Li tani go wicci.

Qorti: DOK JF3 sa DOK JF6.

Avu: Issa konsegwenza ta` dawn il-feriti inti mort go xi polyclinic?

Xhud: Mort il-Mosta ghandi certifikat.

Avu: Dak in-nhar tal-incident min kontu fil-vettura?

Xhud: Konnha jiena u l-mara ghaddejin ghall-affari taghna.

<u>RPC 3194 Alfred Cassar xehed hekk</u>

Xhud: Iva nahlef, jien ghandi ir-rapport.

Qorti: Ghandek xi CCTV Footage?

Xhud: Le dak ghand Spettur Elton Taliana.

Qorti: Mela ghand L-Ispettur qieghed.

Avu: Tista tghidilna min kien ix-xhud?

Xhud: Ix-xhud li ghandi Pauline Farrugia kienet riekba gol-vettura il-mara tieghu.

Qorti: Min hadu il-footage?

Xhud: Il-footage Shafir Avram Alfred provda filmat

It-Tabiba Lorraine Tabone xehedet permezz ta' affidavit rigwardanti Giormu Farrugia.

Kunsiderazzjonijiet

L-ahjar provi , cioe, il-filmat ma giex prodott mill-Prosekuzzjoni. Inoltre hemm kunflitt kbir ta' provi dwar x'ezattament gara f'dan l-incident u x-xhud Claudia Anastazi waslet fuq il-post meta l-incident awtomobilistiku kien diga sehh. Ma ingab l-ebda affidavit jew certifikar rigwardanti l-griehi ta' Damien Xuereb Fic-cirkostanzi hemm kunflitt kbir ta' provi u ma intlahaqx il-livell ta' provi rikjest fil-kamp kriminali.

Decide

Ghaldaqstant ghal dawn il-motivi ma ssibx lil Jerome Farrugia hati ta' l-ebda wahda mill-imputazzjonijet u qieghda konsegwentement tilliberah minn kull htija u piena.

DR. YANA MICALLEF STAFRACE LL.D.

MAGISTRAT

Doris Serpina Sciberras

Deputat Registratur