



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

**MAGISTRATE
DR. JOSEPH GATT LL.D.**

Hearing of the 16th of June, 2024

Case Number: 467/2024

The Republic of Malta

vs

**Nico Smith
(UK Passport Number 130506357)**

The Court;

Having seen the charges brought against the accused **Nico Smith** of thirty (30) years, son of Kevin and Sasha, born in the United Kingdom, on the twenty-third (23rd) of May of the year nineteen ninety-four (1994), charged with:

on the Fourteenth (14th) of June of the year Two-Thousand and Twenty-Four (2024) between around seven o'clock in the evening (19:00hrs) and eight o'clock at night (20:00hrs), in Armier, Mellieħa, Malta, and/or other locations on these Islands:

1. *Without intent to kill or to put the life of **Heiylon Eihtel David Muzo**, in manifest jeopardy, caused harm to the body or health of **Heiylon Eihtel David Muzo**, that is, bodily harm of a grievous nature;
Articles 214, 215 and 216 of Chapter 9 of the Laws of Malta*
2. *At the same period, time, place and circumstances, in any manner not otherwise provided for in the Criminal Code, willfully disturbed the public good order or the public peace;
Article 338(dd) of Chapter 9 of the Laws of Malta*

The Court was also asked to provide for the safety of the injured party, that is, **Heiylon Eihtel David Muzo** or to maintain public good order or to provide for the safety of the aforementioned **Heiylon Eihtel David Muzo** and his family from any harassment or any other behaviour that might cause fear of violence, by issuing a Temporary Protection Order under Article 412C of Chapter 9 of the Laws of Malta, and in the case where the person charged is found guilty, the Court is also humbly asked to provide for the safety of **Heiylon Eihtel David Muzo** under Articles 382A, 383, 384 and 385 of Chapter 9 of the Laws of Malta;

The Court was also asked, in the case where the person charged is found guilty, apart from meting out punishment according to law, to apply the provisions of Article 533 of Chapter 9 of the Laws of Malta;

Having seen that in today's sitting¹, the accused registered a guilty plea to the charges brought against him.

¹ Relative minute commences at fol 6 of the acts of the proceedings.

Having seen that after the Court warned him in the most solemn manner about the legal consequence of his reply and allowed the accused a period of time for him to reconsider after consultation with his lawyer, the same accused reiterated his guilty plea.

Having seen the documents exhibited by the prosecution.

Having seen the joint application filed by the prosecution and the defence, in terms of article 392A(5) of Chapter 9 of the Laws of Malta, whereby they requested the Court to impose a judgement of two (2) years imprisonment suspended for four (4) years, in case the accused pleads guilty and to issue a restraining order in terms of article 382A of Chapter 9 of the Laws of Malta.

Having seen the acts of the case.

Considered

1) Facts and admission of guilt.

Whereas the facts of the case emerge from the documentation of the acts of these proceedings and thus there is no need for a repetition of the same.

Whereas the accused decided to admit to the charges brought against him, which admission was repeated by himself after having been given enough time to reconsider his position.

Whereas considering this², the Court is therefore finding the accused guilty of the charges brought against him.

2) Punishment

Whereas in the present case, the prosecution and the defence requested that this Court imposes a sentence of two (2) years imprisonment, which effects are to be suspended for four (4) years.

Whereas this Court, having seen that what was requested in the joint application falls within the parameters of the law; the fact that the accused had, until today, an untainted criminal record in Malta; his early admission to these charges, is acceding to the joint request.

3) Conclusion

For these reasons, the Court, after seeing 214, 215, 216 and 338(dd) of Chapter 9 of the Laws of Malta, finds the accused guilty of the charges brought against him and condemns him to two (2) years imprisonment. However, in light of the considerations above-mentioned, this term of imprisonment is being suspended for a period of four (4) years from today, in terms of Article 28A(1) of Chapter 9 of the Laws of Malta.

²Regarding the effects of a guilty plea, the Court refers to the cases **Il-Pulizija vs George Cassar Desain**, given by the Court of Criminal Appeal (Inferior Jurisdiction) on the 27th of October 1962; **Il-Pulizija vs Andre Falzon**, (App Nru: 385/2015) given by the Court of Criminal Appeal (Inferior Jurisdiction) on the 19th of November 2015 **Il-Pulizija vs Godfrey Formosa**, (App Nru: 99/2017) given by the Court of Criminal Appeal (Inferior Jurisdiction) on the 26th of October 2017.

In accordance with Articles 28A(4) of Chapter 9 of the Laws of Malta, the Court explained to the convicted offender in ordinary language his liability under article 28B of Chapter 9 of the Laws of Malta, if during the operational period he commits an offence punishable with imprisonment.

Furthermore, the Court is, in terms of article 382A of Chapter 9 of the Laws of Malta, issuing a restraining order against the accused in favour of Heiylon Eihel David Muzo for a period of three years from today.

The Court is not providing for an order in terms of article 533 of Chapter 9 of the Laws of Malta since no experts were appointed in this case.

The Court is finally, in terms of article 392A(2) of Chapter 9 of the Laws of Malta, ordering that within six (6) working days, the Attorney General is to be given access to a scanned copy of the records, together with access to a scanned copy of the judgment.

Dr Joseph Gatt LL.D.
Magistrate

Annalise Spiteri
Deputy Registrar