



The Court of Magistrates (Malta)

As a Court of Court of Criminal Judicature

Magistrate Dr. Nadine Sant Lia

B.A., LL.M(Kent)., LL.D; Barrister at Law (England & Wales)

The Police

(Superintendent Saviour Baldacchino)

vs

Henry Agbedia

Today the 18th July 2024

The Court after having seen the charges in respect of Henry Agbedia, 40 years old, son of Harry and Esther nee' Fiboy, born in Nigeria on the 12th November 1980, residing at Seaside Haven, Flat 4, Ras il-Qawra, St Paul's Bay, holder of residence permit number MT 0654058

For having on the 1st of August 2021 at around 22.30hrs at San Antonio Hotel Parking in Triq il-Merluzz, San Pawl il-Bahar wilfully committed spoil, damage or injury to or upon any movable or immovable property belonging to private persons and/or entities, which damages accede the amount of €2,500 as per art 325(1)(a) of Chapter 9 of the Laws of Malta.

Having seen the consent of the Attorney General in accordance with article 370(4) of Chapter 9 of the Laws of Malta for the case to be dealt with summarily.

Having seen that during the examination of the defendant in the sitting of the 19th August 2021 done in accordance with article 392(1) of the Criminal Code, the defendant pleaded not guilty to the charges against him¹ and this after the Court repeatedly gave him the opportunity to seek legal advice from his legal counsel and after the Court was authorised to proceed nonetheless;

Having seen that during the examination of the defendant in the sitting of the 27th February 2023 done in accordance with article 392(1) of the Criminal Code, the defendant pleaded guilty to the charges against him² and this after the Court repeatedly gave him the opportunity to seek legal advice from his legal counsel and after the Court was authorised to proceed nonetheless;

In view of the defendant's declaration, the Court warned him in the most solemn manner of the consequences arising out of his guilty plea and granted him a reasonable time within which to retract such guilty plea should he so wish. After the Court granted this time to the accused, and after giving him the option to seek advice from his legal counsel, the accused reiterated that he is guilty as charged.

In view of this declaration, duly reiterated, the Court has no option but to find the accused guilty as charged in accordance with article 392A of Chapter 9 of the Laws of Malta and could proceed to deliver judgment against him.

¹ Page 20 act of proceedings

² Page 53 act of proceedings

Having seen that there exist no valid reasons in accordance with article 392A(3) of Chapter 9 of the Laws of Malta for the Court to doubt the validity of such plea of admission, or that the accused is not guilty of the crimes with which he is charged. Therefore, the crimes are sufficiently proven.

Having seen the records of the proceedings as well as the documents filed together with the charge sheet and the particular circumstances of this case;

Having heard submissions by the parties on the punishment;

Having Considered

The facts of the case

This case concerns damages caused by the defendant when he was damaging cars with a metal bar.

Having considered

The punishment

The Court in its deliberations concerning the punishment took note of the following factors:

- The admission of the defendant. The defendant did not admit in the first sitting and therefore it cant be declared that he admitted at the earliest opportunity. However the defendant registered a guilty plea before the prosecution had rested it case. Therefore the court considers that the defendant should benefit from the fact that he registered an admission during the early course of proceedings and this shall serve in his favour

in the circumstances of the cases. This is in line with the principles espoused in local case law that by registering an early plea, the Court is saved from entering into unnecessary expenses as well as administratively be able to expedite matters quicker. The Court here makes reference to the cases **Ir-Repubblika ta' Malta vs. Nicholas Azzopardi**³, **Il-Pulizija vs. Emmanuel Testa**⁴, as well as legal scholars **ARCHBOLD Sentencing Guidelines 2021**⁵ and **BLACKSTONE'S CRIMINAL PRACTICE**⁶ on this point.

- Article 142(1) tal-Criminal Justice Act 2003 in England establishes five principles that should be considered when calibrating the appropriate punishment:
 - (a) the punishment of offenders (b) the reduction of crime (including its reduction by deterrence) (c) the reform and rehabilitation of offenders (d) the protection of the public (e) the making of reparation by offenders to persons affected by their offence.*
- The prosecution exhibited the criminal record of the defendant wherein there are registered other offences.
- The prosecution in its submissions to the Court on the appropriate penalty to be considered, reiterated that it was requesting an alternative to imprisonment in line with a suspended sentence which the defence agreed to. The prosecution also reiterated that none of the victims were compensated and did not indicate the damages owed to the victims. Therefore the Court cannot make an order for compensation to them.

³ Qorti Kriminali deciza 24 ta' Frar 1997

⁴ Qorti tal-Appell Kriminali , [7.7.2002]

⁵ Thomson Reuters, S-29

⁶ Blackstone Press Limited – 2006 edition

The defence concurred with this suggestion and also informed the Court the defendant had since been diagnosed with serious mental health conditions which were untreated at the time of the offence.

The Court is not bound to apply the proposed terms of punishment by the prosecution or the defence, even when there is an agreement between the two sides.

The Court however notes that the proposed or suggested punishment is within the parameters of the law and can be considered.

- The Court took note of the presentencing report carried out by the probation officer whereby it was suggested that the defendant is given a community sanction with an element of supervision attached as well as a treatment order to reduce the likelihood of recidivism in view of the lack of structure in his life.

Decide

The Court, upon the unconditional guilty plea registered by the accused as charged and after having seen article 325(1)(a) of the Criminal Code of Chapter 9 of the Laws of Malta, finds Henry Agbedia **guilty** as charged of all the charges brought against him and condemns him to a term of effective term of imprisonment of **two years** which in accordance to article 28A of the Chapter 9 of the Laws of Malta the said term is being suspended for four (4) years from today.

In terms of Article 28A(4) of Chapter 9 of the Laws of Malta, the Court explained to the accused in plain and simple language his liability under Article 28B of

Chapter 9 of the Laws of Malta, if during the operational period of this suspended sentence he commits an offence punishable with imprisonment.

Furthermore in accordance with article 28G(1) of Chapter 9 of the Laws of Malta the Court is placing the defendant under a Supervision Order for eighteen (18) months and together with this judgment is annexing this decree and declares that this decree forms an integral part of the judgment.

Communication: Director Probation and Parole.

Furthermore the Court after having seen article 412D of Chapter 9 of the Laws of Malta, places the defendant under a Treatment Order for eighteen (18) months to address his mental health conditions and help him in tackling to overcome certain difficulties he is presently passing through and this in accordance with the annexed decree which is considered to be an integral part of this judgment. The Court declares that it made this Treatment Order after having explained to the defendant in simple and plain English the obligations and responsibilities emanating from this Order and any consequences that may arise if he does not abide by the condition of this Treatment Order.

Communication: Director Probation and Parole

Furthermore, in view of the fact that no experts were appointed in this case, the Court abstains from taking further cognisance of the prosecutions requests in terms of Article 533 of Chapter 9 of the Laws of Malta.

Finally, the Court, after having seen Article 392A of the Criminal Code orders that this judgment together with the records of the proceedings be transmitted to the Attorney General within six working days in terms of law.

Delivered today the 18th July 2024, at the Courts of Justice in Valletta, Malta.

**Dr. Nadine Sant Lia
Magistrate**

**Oriana Deguara
Deputy Registrar**