



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

**MAGISTRATE DR. ELAINE RIZZO LL.D.**

Case No.: 437/24

**THE REPUBLIC OF MALTA**

**against**

**IAIN ALEXANDER TURNBULL  
JAMIE NICHOLAS JAMESON MAGRO**

*Today, the 3<sup>rd</sup> of October 2024*

**THE COURT,**

After having seen the charges brought against the accuseds:

- **Iain Alekxander Turnbull** , eighteen (18) years of age, son of Alex and Angel Turnbull nee' Fisher, a British national, born in United Kingdom, on the eleventh (11<sup>th</sup>) of December the year two thousand and five (2005), residing at Flat 8, Karif Apt. Guzeppi Despot Street, Qawra and holder of Maltese Identity Card number 0161510A; and

- **Jamie Nicholas Jameson Magro**, eighteen (18) years of age, son of Mark and Karina Jameson nee' Magro, a Maltese national, born in Pieta' on the fourth (04<sup>th</sup>) of August the year two thousand and five (2005), residing at 59, Le Dor, Sir Authur Borton Street, Mosta and holder of Maltese Identity Card number 253105L;

Whereby, on behalf of the Republic of Malta, they were charged with having:

Sometime between the fourteenth (14<sup>th</sup>) of April and the fifteenth (15<sup>th</sup>) of April of two thousand and twenty-four (2024) in Ta' l-Imdawra Street, Naxxar and/or elsewhere in these Islands:

1. With the intention of making temporary use thereof drove a vehicle of the make of Toyota with registration ABR016 without having the consent of the Article 61(1) of Chapter 65 of the Laws of Malta.
2. On the same date, place, time and circumstances, drove the same motor vehicle without a licence; Article 15(1)(a) of Chapter 65 of the Laws of Malta.
3. On the same date, place, time and circumstances, drove the same motor vehicle without a policy of insurance; Article 3 of Chapter 104 of the Laws of Malta.

Between the time of three in the morning (03.00) and five in the morning (05.00) on the twenty-first (21<sup>st</sup>) of May two thousand and twenty-four (2024), inside the residence of Il-Horga, Ta' l-Imdawra Street, Naxxar and/or elsewhere in these Islands:

4. Committed the crime of theft of jewellery and/or other objects which theft is aggravated by means, by amount which value exceeds the amount of two hundred and thirty-two Euro and ninety-four cents (€232,94) but does not exceed two thousand and three hundred and twenty-nine euro and thirty-

seven cents (€2,329.37) by place and by time and to the detriment of Alex Galea and/or Tammy Elizabeth Abela and/or other entities; Articles 261(b),(c), ( e),(f) 263(a), 266(1), 267, 269(g), 270, 278(3) of Chapter 9 of the Laws of Malta.

5. On the same date, place, time and circumstances, wilfully committed spoils, damages or injuries to or upon movable or immovable property belonging to other persons which amount of damage exceeds two thousand and five hundred Euro (€2,500) and this was done to the detriment of Carl Grima and/or Esther Grima and/or Angel Radevski and/or any other person/s and/or any other entity/entities; Articles 325(1)(a) of Chapter 9 of the Laws of Malta.
6. On the same date, place, time and circumstances, they carried outside any premise or appurtenance thereof a knife or cutting or pointed instrument of any description without a licence or permit from the Commissioner; Articles 6 u 51(7) of Chapter 480 of the Laws of Malta.

The Court was requested that in the event of guilt to apply article 15A and 532A of Chapter 9 of the Laws of Malta;

The Court was requested that in the case of guilt, in addition to the punishment in accordance to the law, orders the accused to pay the costs incurred in terms of Article 533 of the Criminal Code, Chapter 9 of the Laws of Malta.

Having seen the documents exhibited;

Having heard the testimonies of the witnesses brought forward;

Having seen that both of the accused registered a guilty plea to all the charges proffered against them which guilty pleas were confirmed after the Court solemnly warned both accused about the consequences of the said guilty plea and

gave them time to reconsider with the possibility to withdraw the same. This after also allowing them to consult again with their lawyers;

Having heard the submissions with regards to the punishment which should be meted out;

**Considers:**

Whereas in light of the guilty pleas registered by both of the accused, the charges proffered against them have been proven in terms of law.

Whereas with regards to the punishment which should be meted out, the Court has taken cognizance of the nature of the offences, the accused's clean conviction sheets; their age; their cooperation with the police; the fact that a guilty plea was registered at the earliest stage of the proceedings; the fact that they are both first time offenders and also the pre-sentencing reports which were prepared in their regard. With regards to Mr. Turnbull, the probation officer concluded that there were problems in his upbringing and that he suffers from ADHD, depression and anxiety. The Probation Officer also commented that the accused has lack of stability and structure in his life. With regards to Mr. Magro, the probation officer concluded that he has been regularly employed since 2021 and that it is likely that Magro has no addictions or trauma which could have influenced or contributed to the actions with which he stands charged. Mr Magro described these incidents as stupidity and thrill-seeking. According to the probation officer Mr. Magro regrets these incidents and is displaying genuine remorse towards the victims. The probation officer also communicated with the victims who on their end insisted that they should be compensated for damages suffered.

Whereas following the presentation of the said reports both of the accused and the prosecution agreed that a probation order would be appropriate in the circumstances of the case.

Whereas notwithstanding the fact that both of the accused and the prosecution agreed that a probation order would be an appropriate sentence in the circumstances of this case. This sentence cannot be given in relation to the third and sixth charges proffered against the accuseds given the exclusion rules stipulated in article 3(2B) of Cap. 104 of the Laws of Malta and article 61 of Cap. 480 of the Laws Malta.

Hence, in light of all the aforementioned considerations, the Court is of the view that a Probation Order will be appropriate with regards to the first, second, fourth and fifth charges brought against the accuseds whilst it will be inflicting a monetary punishment with regards to the third and sixth charges.

With regards to the damages suffered, the prosecution exhibited as Doc FC12: a list of jewellery items, two receipts from Auto Cosmetics; and an estimate from Kinds. These receipts were never confirmed on oath and with regards to some receipts it is unclear as to what vehicle or damage they refer. It must be also said that (even in light of the fact that in one receipt there is also indicated that the issuer of the said receipt will be charging Eur. 200 for everytime he is summoned to testify about the receipt - a charge which with all the due respect makes no sense and in any case should never be at the accused's cost) this Court cannot simply rely blindly on such receipts but it must compare the cost indicated with the damages caused. In this respect, the Court was not provided with clear evidence as to what were the damages caused by the accuseds. Although it is true that the prosecution exhibited the report made by the Scene of Crime officers whereby it is clear that a number of vehicles had some damages, it remains unclear what was the damage caused by the accuseds. This in light of the fact that this court cannot exclude that these vehicles might have had some damages which were not caused by the accuseds especially since even the police in their report (which, like the receipts, was not even confirmed on oath) refer to the bus and

vehicle as ‘derelict’<sup>1</sup>. Hence in view of these considerations the Court is in an impossible situation to apply articles 15A and 532A of the Criminal Code and order the accuseds to pay for damages even if such measure would be fit in the circumstances of this case. For the Court to order the restitution for damages, it is not sufficient that the prosecution make a request to this effect but it is essential that evidence to this effect is provided to the level of proof applicable to criminal proceedings. This Court gave the opportunity to the prosecution to present such evidence however all that was presented was the report by the Scene of Crime Officers. Although with this report the Court can have a good idea of the state of the objects post the offence, it is not conclusive evidence of the damages caused by the accuseds as it was explained above. Consequently the Court cannot apply the provisions of article 15A and 532A of the Criminal Code.

**Decide:**

HENCE, for these reasons, the Court, after having seen articles 15(1)(a); 61(1) of Cap. 65 of the Laws of Malta; article 3 of Chapter 104 of the Laws of Malta; articles 261(b), (c), (d), (e) and (f); 263(a); 266(1); 267; 269(g); 270; 278(3); 325(1)(a) of Cap. 9 of the Laws of Malta and articles 6 and 51(7) of Cap. 480 of the Laws of Malta, upon their admission, is finding both of the accused – Iain Alexander Turnbull and Jamie Nicholas Jameson Magro guilty of all the charges brought against them and;

- i. With regards to the third and sixth charges, it is condemning each of the accused to the payment of a fine multa of two thousand five hundred Euros (€2500). Additionally, in terms of article 3(2A) of Cap. 104 of the Laws of Malta, the Court is disqualifying both of the accuseds from holding or obtaining a driving license for a period of twelve months from today and in terms of article 57 of Cap. 480 of the Laws of Malta, the Court is

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<sup>1</sup> Fol. 21 of the acts of proceedings.

prohibiting both accused from holding a license under Cap. 480 of the Laws of Malta for a period of two years from today.

- ii. With regards to the rest of the charges, for the aforementioned reasons, by application of article 7 of Cap. 446 of the Laws of Malta is putting both Iain Alexander Turnbull and Jamie Nicholas Jameson Magro under a Probation Order for the period of three (3) years from today, with the conditions stipulated in the Probation Order herewith attached and which forms an integral part of this judgement.
- iii. The Court is also placing Iain Alexander Turnbull under a Treatment Order in terms of article 412D of Cap. 9 of the Laws of Malta, in order for him to get support with regards to his medical conditions and increase stability and structure in his life. The terms and conditions of the said Treatment Order are set out in a decree attached to this judgement, which decree shall form an integral part of this judgement.

The Court, in terms of article 7(7) of Cap. 446 of the Laws of Malta, warned the offenders about the legal consequences if they commit another crime within the prescribed operative period of the probation order and / or if they fail to abide by one of the orders stipulated in the Probation Order. The Court also explained to Iain Alexander Turnbull the consequences provided for in section 412D(4) of Cap. 9 of the Laws of Malta, should it be proved to the Court's satisfaction that the offender has failed to comply with any of the requirements or conditions of the Treatment Order.

In terms of article 23 of the Criminal Code, this Court is ordering the forfeiture of the *corpus delicti*, particularly of those items which were exhibited by Police Inspector Francesca Calleja on 1<sup>st</sup> July 2024 save the owner's rights in terms of article 674 of the Criminal Code.

The Court orders that a copy of this judgement, together with the Probation Order and the Treatment Order be sent to the Director of the Probation Services and

Parole so that he assigns a probation officer to be responsible for the supervision of the probationers.

Finally, the Court orders, that the Attorney General is given access to a scanned copy of the records, together with access to a scanned copy of the judgement within six (6) working days.

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Dr Elaine Rizzo  
**Magistrate**

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Christine Farrugia  
**Deputy Registrar**



