



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

**MAGISTRATE DR. GIANNELLA CAMILLERI BUSUTTIL
B.A., M.A. (Fin. Serv.), LL.D.**

Today 22nd October 2024

Case Number: 24/2021

**The Police
(Inspector Mark Mercieca)**

vs

Lamin F. Drammeh

The Court,

Having seen the charges brought against the accused **Lamin F. Drammeh**, twenty eight (28) years old, son of Fakebba and Kadijaton nee' Dibba, born on the nineteenth (19th) September of the year nineteen ninety two (1992) in Kaigwest (Gambia), residing at number twenty five (25), Triq ir-Rebħa, Gżira, holder of Italian Residence Permit number 111943599.

And hereby accuse him for having on the eleventh (11th) of February of the year two thousand and twenty one (2021) and during the weeks before in these islands:

1. Produced, sold or otherwise dealt with the whole or any portion of the plant Cannabis in terms of Section 8(e) of Chapter 101 of the Laws of Malta.
2. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the whole or any portion of the plant Cannabis in terms of Section 8(d) of Chapter 101 of the Laws of Malta, **which drug**

was found under circumstances denoting that it was not intended for his personal use.

3. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the whole or any portion of the plant Cannabis in terms of Section 8(d) of Chapter 101 of the Laws of Malta.

Having seen that this case was assigned to the presiding Magistrate in terms of the assignment of duties dated ninth (9th) March of the year two thousand and twenty three (2023)¹;

Having heard the parties declare, during the sitting of the twenty ninth (29th) May of the year two thousand and twenty three (2023), that they were exempting the Court as presided from hearing again the evidence tendered before the Court as previously presided;

Having seen the records of the case, including the Order of the Attorney General of the twelfth (12th) February of the year two thousand and twenty one (2021), in terms of subarticle (2) of Article 22 of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, for the accused to be tried before the Court of Magistrates as a Court of Criminal Judicature²;

Having seen that during the sitting of the twelfth (12th) February of the year two thousand and twenty one (2021), the accused pleaded guilty to the charges brought against him³;

Having seen that the guilty plea was reiterated by the accused during the sitting of the nineteenth (19th) April of the year two thousand and twenty four (2024), after that the Court explained to him the legal consequences of his guilty plea and gave him sufficient time to reconsider and withdraw his guilty plea⁴;

Having seen the request made by the defence counsel on the twelfth (12th) February of the year two thousand and twenty one (2021), by virtue of which they requested the Court to assume the functions of a Drug Court in terms of Section 8(3) of the Drug Dependence (Treatment not Imprisonment) Act, Chapter 537 of

¹ At fol. 110 of the acts of the proceedings

² At fol. 11 of the acts of the proceedings

³ At fol. 5 of the acts of the proceedings

⁴ At fol. 148 of the acts of the proceedings

the Laws of Malta and consequently further requested the Court to authorise the accused to submit evidence for the purpose of proving to the satisfaction of the Court that the conditions laid down in Section 8(2) of the same Act subsist⁵;

Having seen the request made by the defence on the same date for the court to appoint a psychologist expert;

Having seen that on the same date, the Court authorised the accused to submit evidence and also appointed Dr. Roberta Holland as a psychological expert;

Having seen that by virtue of a decree dated fifteenth (15th) July of the year two thousand and twenty one (2021), the Court as otherwise presided acceded to the defence's request and assumed the functions of a Drug Court and referred the accused to the Drug Offenders Rehabilitation Board in terms of Article 8(3) of Chapter 537 of the Laws of Malta⁶;

Having seen the Note exhibited by the Drug Offenders Rehabilitation Board on the twenty ninth (29th) November of the year two thousand and twenty three (2023), from where it results that the Board was satisfied with the rehabilitation process of the accused and that the accused's case was successfully terminated⁷;

Having heard the testimony of the Registrar of Courts of the fifteenth (15th) March of the year two thousand and twenty four (2024) who stated that this is the only pending case of the accused⁸.

Having heard submissions regarding punishment by the prosecution and the defence counsel.

Considers that:

The accused pleaded guilty to the charges brought against him and thus these have been sufficiently proven.

As regards the punishment to be inflicted, the Court took into consideration the fact that the accused pleaded guilty at the earliest possible opportunity in these proceedings, the nature and the seriousness of the offences of which the accused is being found guilty, the declaration by the prosecution that the quantity of drugs found in the possession of the accused is that of approximately sixty eight (68)

⁵ At fol. 5 of the acts of the proceedings

⁶ At fol. 41 of the acts of the proceedings

⁷ At fol. 141 of the acts of the proceedings

⁸ At fol. 144 of the acts of the proceedings

grams cannabis grass, which certainly cannot be regarded as insignificant and the updated clean conviction sheet of the accused.

It is also taking into consideration the fact that this Court assumed the functions of a Drug Court, that the accused was referred to the Drug Offenders Rehabilitation Board, and that the Board was satisfied with the process of rehabilitation of the accused and considered the case as being successfully terminated.

The Court also considers that from the evidence brought forward in these proceedings it transpires, at least on a balance of probabilities, that the offences of which the accused is being found guilty, were mainly attributable to his drug dependence. Therefore, this Court is satisfied that the criterion mentioned in Article 8(7) of the Drug Dependence (Treatment not Imprisonment) Act, Chapter 537 of the Laws of Malta, results in this case, and therefore in terms of the same subarticle, is refraining from applying the mandatory minimum term of imprisonment, or the exclusion of the application of a probation order or of the suspension of a term of imprisonment.

For the purpose of the punishment to be inflicted, the Court is also applying the provisions of Section 17 of the Criminal Code, Chapter 9 of the Laws of Malta.

Conclusion

For these reasons, the Court, after having seen Articles 8(d)(e), 12, 22(1)(a) and 22(2)(b)(i)(ii) of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, Regulations 4 and 9 of the Internal Control of Dangerous Drugs Rules, Government Notice 292 of 1939, as amended, Article 8 of the Drug Dependence (Treatment not Imprisonment) Act, Chapter 537 of the Laws of Malta and Sections 17 and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, upon his admission, finds the accused **Lamin F. Drammeh** guilty of the charges brought against him and condemns him to a punishment of **twelve (12) months imprisonment**, which by application of Article 28A of the Criminal Code, Chapter 9 of the Laws of Malta, is being **suspended** for a period of two (2) years from today and a fine (multa) amounting to **one thousand euros (€1000)**, which fine (multa) can be paid within a period of eleven (11) months from today by means of monthly installments each amounting to one hundred euros (€100), with the first payment becoming due within a month from today. Should the accused fail to pay any one or more installments, the whole amount outstanding shall

become immediately due and payable, and all the provisions of the Criminal Code, Chapter 9 of the Laws of Malta, applicable to the imposition of a fine (multa) and to the imprisonment in default of payment thereof, shall apply accordingly.

The Court explained to the person sentenced, in clear and simple terms, the legal consequences of this judgement, should he commit any other offence punishable by imprisonment within the operative period of the suspended sentence.

In terms of Section 533(1) of the Criminal Code, Chapter 9 of the Laws of Malta, the Court condemns the person sentenced to the payment of expenses relating to experts appointed by the Court during these proceedings, namely, Dr. Roberta Holland amounting to the sum of four hundred and fifty seven euros and ninety eight cents (€457.98), which costs shall be paid by the person sentenced within twelve (12) months from today.

The Court orders that in terms of subarticle (8) of Article 8 of the Drug Dependence (Treatment not Imprisonment) Act, Chapter 537 of the Laws of Malta, these offences shall not be taken into consideration for the purposes of the issue of a conduct certificate under the Conduct Certificates Ordinance.

In terms of Section 392A(2) of the Criminal Code, Chapter 9 of the Laws of Malta, the Court orders that within six (6) working days from the date of this judgement, the Attorney General shall be given access to a scanned copy of the records, together with access to a scanned copy of the judgment.

Magistrate Dr. Giannella Camilleri Busuttil

Deputy Registrar Michela Attard Deguara