



MALTA

**COURT OF MAGISTRATES (MALTA)
as a Court of Criminal Judicature**

MAGISTRATE DR. NADIA H. VELLA
B.A., LL.D., Dip. Trib. Eccl. Melit.,

Sitting of the 4th of October 2024

Police

(Inspector Warren Galea)

vs.

Mark Demanuele

holder of Maltese Identity Card numbered 413162M

Case Numbered: **4060/2024**

The Court,

Having seen the charges brought against the accused Mark Demanuele, 61 years old, son of Joseph Tarcisius and Pauline neé Calleja, born in Birkirkara on the 29th of June 1962 and residing at 12, Shalom, Triq iċ- Ċiek, Naxxar holder of identity card number 413162M

accused of having on the 2nd of February 2024 at around 17:00 in Ghajn Tuffieħa Bay, in Mellieħa :

1. When suspecting that the dog under his control is temperamental or dangerous or can cause harm to any person, failed to keep the dog muzzled at all times in any public place;
2. Failed to keep the dog under his control;
3. As the person who has any dog under his control, allowed such dog to stray and without having control of the dog and keeping him on the leash;
4. Through imprudence, carelessness, unskilfulness in his art or profession, or non-observance of regulations, caused bodily harm to Svitlana Lytvyniuk which harm is slight as was certified by Dr. Bernard Balzan holder of medical registry number 8045;

Having seen Articles 3(1) and 3(2) of Subsidiary Legislation 312.01, Article 14(1) of Chapter 312 and Article 226(1)(c) of Chapter 9 of the Laws of Malta;

Having seen that the alleged injured party declared that she does not understand Maltese and therefore requested the proceedings to be continued in the English Language, a request which the Court acceded to, after having heard that the defence did not object to it.

Having seen the documents exhibited namely the affidavit of PS2418 Analise Teuma¹, the relative police Incident Report², the medical certificate on the person of Svitlana Lytvyniuk³, the affidavit of Dr. Bernard Balzan⁴;

Having seen that the alleged injured party renounced to the accusations which may be renounced to, and thus she renounced to the 4th accusation which may only be prosecuted upon the complaint of the injured party;

¹ Document SM1, fol. 7;

² Having reference number 11/POL/627/2024, dated 5th February 2024, Dok. SM 2, fol. 13;

³ Fol. 16;

⁴ Fol. 18;

Having heard the testimony of **Svitlana Lytvyniuk**⁵; where it resulted that on the 2nd of February of 2024 she was walking along the beach with her husband and her one-and-a-half year old child and the accused's dogs tried to attack her child, and in order to protect her child she got bitten by the dogs herself, two times on her legs; She went to the Mosta Health Centre and a medical certificate was issued⁶; She remembered that the dogs were without a muzzle, but could not remember whether they were on a leash;

Having heard the testimony of Martha Gatt⁷ on behalf of the **Microchipping Department** whereby it resulted that the accused is the owner of two dogs, one a pitbull⁸ named Jacob and the other a mixed breed named Billy;

Having heard the accused **Mark Demanuele** testify that on the date of the incident, the dogs were both on the lead. The witness' husband was walking in front of her and he stopped to speak to the dogs who were very friendly towards him. Suddenly one of the dogs pulled him and he couldn't hold him because of a condition in his back. The dog ran up to the lady and tried to jump on the child "but not to damage the child, just to be playful". The mother got scared, grabbed the dog and the dog either bit her or scratched her. As soon as he realized what was happening, he grabbed the dog from his collar and pulled him away. When questioned in cross-examination why he took both dogs out together, when he knew that he has a problem with his spine, the accused replied that this was because they never showed any aggression before. Since the incident, he has got them a choke collar so that if they were to pull him now, it would hurt their collar. After this incident, he had two trainers come to the house to train the dogs.

Having heard the oral submissions of the prosecution and the defence.

Considered:

The accused owned the dog "Jacob" for only two months before the incident, whereas he owned the dog "Billy" for three years and a half. He testifies that this was the first time that either dog showed any signs of aggression, a statement that is not contradicted by evidence to the contrary. Thus the accused could not have known or

⁵ Given on the sitting of the 14th of June 2024, fol. 20;

⁶ Document SM3, fol. Fol. 16;

⁷ Given on the sitting of the 14th of June 2024, fol. 27

⁸ The accused insists that this is mistaken and that the dog Jacob is not a pitbull but an American Bully;

suspected that the dogs could cause harm to any person. Therefore he cannot be held criminally responsible for not having the dogs muzzled on the date of the incident.

Notwithstanding this, it is sufficiently proven that the dogs did cause harm on the person of the injured party on the given date. The Court opines that the incident could have been avoided, should the accused have taken care to put the dogs on an appropriate lead prior to the incident taking place, considering that due to his back problems, it was not possible for him to hold back both dogs.

Regarding the destruction the dogs in terms of Article 14(1) of Chapter 312, the Court feels that the nature of the injuries caused to the victim was not such as to merit such extreme consequences. This is being decided also as the Court notes that the accused was sorry for the incident that took place and took action to prevent this from repeating itself, by introducing a choke collar on the dogs and also calling in professional trainers.

However, the court in order to ensure the safety of the general public, whilst not ordering the destruction of the dogs, will be ordering the accused to keep both dogs Jacob and Billy muzzled at all times in any public place and this in terms of Articles 3(1) of Subsidiary Legislation 312.01.

Decides

For the above-mentioned reasons, the Court is:

acquitting the accused from the first accusation,
not taking further cognisance of the fourth accusation since this has been renounced to by the injured party,
and
after having seen Article 14(1) of Chapter 312 finds the accused guilty of the second accusation and fines him an **ammenda** of eleven euro and sixty-five cents (**€11.65**)
and
after having seen Article 3(1) of Subsidiary Legislation 312.01, finds the accused guilty of the second accusation and fines him an **ammenda** of twenty-three euro and twenty-nine cents (**€23.29**);

The court orders the accused to keep both dogs Jacob and Billy muzzled at all times in any public place and this in terms of Articles 3(1) of Subsidiary Legislation 312.01.

Dr. Nadia H. Vella
Magistrate

Naomi Bonello
Deputy Registrar