Qorti tal-Magistrati (Malta)

Bhala Qorti ta' Gudikatura Kriminali

Magistrat Dr. Yana Micallef Stafrace LL.D.

Kawza tad-Distrett tan-Naxxar

Il-Pulizija

(Spettur Ritienne Gauci)

(Spettur Joseph Mallia)

Vs

Carmel Grech

Illum, 12 ta` Marzu, 2025

Il-Qorti,

Rat l-imputazzjonijiet dedotti kontra **Carmel Grech**, 51 sena, iben Joseph u Maria nee' Cilia, mwieled Pieta' fl-10/06/1970 u residenti gewwa 'Victoria', Flat 4, Sqaq Cejlu, Naxxar detentur tal-karta tal-identita' numru 274570 akkuzat talli nhar l-10 ta' Marzu 2022 ghal habta ta' 17:30 hrs f' dawn il-Gzejjer Maltin u cioe' gewwa Trejqet l-Irziezet, Naxxar

1. Fi triq jew f' post pubbliku iehor, imbuttajt lil Tribe Alice Jane u Leow Stephanie Hui Min sabiex tweggaghhom jew tinsulentahom;
2. Aktar talli hebbejt ghal Tribe, Alice Jane skond kif iccertifikat minn Dr. Kristen Gauci MD Reg 6537 u hebbejt ukoll ghal Leow, Stephanie Hui Min skond kif iccertifikat minn Dr Matthew Reg. 4264 u kkagunajtilhom offiza ta' natura hafifa kif iccertifikat mit-tabib.

3. U aktar talli nsulentajt, heddidt jew ingurjajt bi kliem jew b' mod iehor lil Horne Chiara, Leow Stephanie Hui Min u Tribe Alice Jane.

   Il-Qorti giet mitluba sabiex f' kaz ta' hrija hija titlob ghas-sigurta' tal-persuna ta' haddiehor jew sabiex jinzamm il-bon ordni pubbliku, torbot lil hati b' obbligazzjoni tieghu nnifsu taht penali ta' flus hekk iffissata.

Rat li permezz ta' digriet datat 10 ta' Ottubru, 2022 Alice Tribe giet ammessa bhala *parte civile* f' dawn il-proceduri.

Rat li fis-seduta tas-7 ta' Marzu, 2023 id-difiza ecceppiet li l-ewwel u t-tielet imputazzjonijiet huma preskritti. Il-prosekuzzjoni taqbel li l-perijodu huwa ta' tlett xhur u ssprovista mir-riferti. Il-Qorti tara li l-ewwel u t-tielet imputazzjonijiet huma preskritti.

Rat l-affidavit ta' PS 1301 ipprezentat mat-tahrika tal-kawza; rat l-affidavits ta' Dr Kristen Gauci u ta' Dr Matthew Formosa, ipprezentanti mill-prosekuzzjoni fis-seduta tas-7 ta' Marzu, 2023; semghet ix-xhieda bil-gurament ta' bil-lingwa ingliza ta' Alice Jane u ta' Stephanie Hui Min Leow fis-seduta tal-7 ta' Marzu 2023; ta' Chiara Horne bil-lingwa Ingliza fis-seduta tat-8 ta' Novembru 2023; Ilkoll prodotti mill-prosekuzzjoni. Semghet ix-xhieda ta' Joseph Grech u Carmel Grech fis-seduta tal-14 ta' Mejju, 2024.

Rat li fis-seduta tat-8 ta' Novembru, 2023 l-Prosekuzzjoni u l-parte civile ghalqu l-provi taghhom;

Rat li fis-seduta tal-14 ta' Mejju, 2024 d-difiza ghalqet il-provi, saret it-trattazzjoni tal-partijiet u l-Qorti differiet il-kawza ghas-sentenza.

Rat l-artikoli 339(1), 221 (1) u 339(1)(e) tal-Kap. 9 tal-Ligijiet ta' Malta.

Rat id-dokumenti, ix-xhieda u l-atti kollha

Ikkunsidrat

Provi prodotti mill-Prosekuzzjoni

Affidavit ta' PS 1301 ipprezentat mat-tahrika tal-kawza. Nhar 1-10 ta' Marzu, 2022 ghal habta ta' 18:15 hra Stephanie Hui Min Leow, Alice Jane Tribe u Chiara Home fil-kapacita' taghhom bhala membri tal-Bird Life Malta ghamlu rapport l-ghassa tan-Naxxar li waqt li kienu hergin minn passagg li fl-opinjoni taghhom kien pubbliku, zewgt irgiel mixjin fid-direzzjoni opposta taghhom bdew jghajtu maghhom u joffenduhom. Dawn l-irgiel hadu r-ritratti lejhom u ghalhekk huma hargu l-mobile u bdew jigbulhom video. Irrapportaw li ragel minnhom prova jaqbad il-mobile minn idejhom u imbotta lil wahda minnhom fuq il-hajt tas-sejjieh. Anki' r-ragel ta' eta' zghira imbottahom fuq il-hajt tas-sejjiegh.

Aktar tard Alice Jane Tribe ipprezentat certifikat mediku mahrug mill-klinika tas-Sahha tal-Mosta fejn giet iccertifikata minn Dr Kerstin Gauci Med 6357 li kienet qed issofri griehi hfief salv kumplikazzjonijiet. Stephanie Hui Min Leow ipprezentat certifikat mahrug mill-klinika tas-sahha tal-Mosta fejn Dr Mathhew Formosa Med Reg. 4264 iccertifika li kienet qed issofri griehi zghar salv kumplikazzjonijiet.

Il-vittimi infurmaw li riedu li jittiehdu proceduri kriminali.

Nhar il-11 ta' Marzu, 2022 ghal habta ta' 09:45hrs gie fl-Ghassa tan-Naxxar Carmel Grech wara li gie mitlub li jaghmel dan. Huwa gie infurmat b' dawn l-allegazzjonijiet u gie moghti s-soliti drittijiet legali fosthom tal-avukat fejn hu ghazel li jkellem lil Dr Gatt permezz tat-telephone. Carmel Gatt taha l-verzjoni tieghu fuq l-okkorrenza numru 9/POL/1606/2022.

Fl-istess jum gie mitkellem ukoll Joseph Grech wara li gie mitlub li jaghmel dan. Huwa gie infurmat bl-allegazzjoniiet li saru fil-konfront tieghu u gie moghti s-soliti drittijiet tieghu fosthom tal-avukat fejn hu ghazel li jkellem lil Dr Gatt permezz tat-telephone. Hu taha l-verzjoni tieghu fuq l-okkorrenza numru 9/POL/1606/2022.

Affidavit tat-Tabib Kristen Gauci ezebit fis-seduta tas-7 ta' Marzu, 2023. Jikkonferma li ezamina lil Alice Jane Tribe nhar 10 ta' Marzu 2022 u sab li kienet qed issofri minn *"-superficial abrastion in the postero medial aspect of left forearm. – two superficial lacerations less than 2cm on the 3rd and 5th digits of left hand."* Dawn il-griehi huma ta' natura hafifa salc kumplikazzjonijiet. Ic-certifikat relattiv huwa ezebit.

Affidavit tat-**Tabib Matthew Formosa** ezebit fis-seduta tas-7 ta' Marzu, 2023. Jikkonferma li ezamina lil Stephanie Hui Min Leow fl-10 ta' Marzu 2022 fic-centru tas-sahha tal-Mosta fil-20:51. Iccertifika li l-pazjenta ilmentat dwar ugiegh minn naha tax-xelluq tal-geddum u li kien hemm ftit 'tenderness' hawnhekk waqt l-ezami. Ma kien hemm l-ebda' griehi vizibli. Illi n-natura ta' dawn il-griehi hija hafifa salv kumplikazzjonijiet." Ic-certifikat relattiv huwa ezebit.

Alice Tribe, xehedet bil-lingwa Ingliza fis-seduta tas-7 ta' Marzu, 2023. Fl-10 ta' Marzu, 2022 kinet qed tahdem ghan-nom ta' Bird Life Malta flimkien ma Steph Leow u Chiara Horne. Huma kienu gewwa l-Maghtab. Tixhed:-

> " so we took the same route back to our vehicle which led us back past Gregory Boat yerd this was about 5 at this point we started walking and when we saw the younger man sat over there it was walking towards us." Ix-xhud dan l-istadju tindika lil akkuzat Joseph Grech. Tkompli tixhed:-

> "Wit: And so the younger man was walking towards us and me and my colleague made contact with the man and he gave us a bit of a smoke like a bit of a funny look and at that point he shouted up towards 2 men standing at the top of the building we walked past and it was that point where we heard a loud bang behind us and we turned around to see quite a heavy object thrown against the metal fence so this start with us and it was at this point the older man came down near the younger man."

Ix-xhud f' dan l-istadju taghraf lil imputat Carmel Grech.

"Wit: And they had 2 dogs with them as well but they were off the leash they were barking and personally Im quite scared of dogs so I felt quite intimidated by the dogs and they didn't do anything and the presence also I found quite … both of them were shouting verbal maltese and english I don't understand enough maltese but I can pick up few words like barra which I know it means out I could tell by the body language that we were not friendly basically so this verbal abbusive continued and the english words they said go back to your country and F your mother at this point I

decided because the older man he had his phone up the whole time like he was taking a video and I didn't like this and I felt like they were being quite aggressive so i wanted a picture of them so at this moment I got on my friends take a picture you can see in the picture the 2 men are following us,"

. . . omissis . . .

"Court: And what was the locality were this happened?

Wit: So this is just past Gregory Boat Yard it was roughly where I took the photo it was soon after the man came down and he start following us so when I took the photo its irritated them especially the older man even more and he tried to grab my phone off me to get rid of the phone and he shaffled me in to the rubble wall and we continued and I mentioned,

Court: What happened when he shuffled you?

Wit: I managed to keep walking and so did my colleague so because of this point we just wanted to get back to our vehicle and I said to them several times like we are on this public foot path cause we were going back to our vehicle and then the younger man also tried to take my phone was by pushing me to the rubble wall and my colleague Steph Law she tried to defend me at this point and she also went to grab the younger man I didn't see exactly what happened because I they were behind me at this point but then I realise we were walking to a dead end and we had we … … the right track at this point so to retrace our steps we had to turn around and go back pass these 2 men so me Chiara and Steph turned around to get back on track and the older man at this point he grabbed me from behind almost like a bear hug again to try and get my phone and I manage to get free at this point a red pickup truck appeared on the scene we dont know who the driver was we didn't get any details about who the

driver was but he spoke to these 2 men and it was after that they stopped following us so I don't know who he was but at this point we were able to continue eventually got back to our car and when we got back to the car I called Naxxar district police at 5.55pm and then they advised us to come down to the police station to give our statements and they sked me if I had any injuries and I had slight injuries on my hand so I went to Mosta Polyclinic to get the injuries looked up."

Mistoqsija mill-Qorti minn ikkagunalha l-griehi tirrispondi

"Wit: In would say both because both I was pushed into the wall, and it was slight injuries on my left hand where I tried to basically keep my balance."

Stephanie Leow xehdet bil-lingwa Ingliza fis-seduta tas-7 ta' Marzu 2023. Ghal habta tal-5:30 nhar il-10 ta' Marzu 2022 meta kienu qed jirritornaw lejn il-karozza taghhom li kienet ipparkjata hdejn il-Wasteserve fi Triq Ramla f' passagg pubbliku ghaddew qrib Gregory Boat Yard fl-area tal-Maghtab. Tixhed li kif ghaddew il-boat-yard raw tlett irgiel fuq bejt u semghu xi haga tqila tintefa minn fuq il-bejl ghal fuq xi 'metal sheets' li kienu warajhom. Dak il-hin daru raw lil imputat Carmel Grech.

"Wit: We notice that he had come down from the roof going near the younger man on the foot path they were both following us with their 2 dogs as they were following us they were shouting they were insulting us in Maltese and in English I don't understand Maltese but I recognize on the phrases could be barra and in English they were shouting at us to go back to your country and F your mother and while they were following us the older man was also showing us on his phone in response Alice then took a photo of the 2 men on her phone to capture a photo of evidence of the incident and at this point the older man launch for Alice pushing her into the wall to try and get her phone away from her and the younger man also pushing Alice against the wall in order to try and stop her to take her phone away and at the same time the older man was shouting in her face I was trying to get the younger man pulled the younger man from Alice and

at this point he swang his arm towards me he hit me but Alice moved me out of the way we realise that we were going towards a dead end and we were going the wrong way and we return back to turn around and go passed to the men again and get back to the right path, so we turned around we passed the 2 men and older man grabbed Alice from behind and tried once again snatch her phone away from her she … … away and at this point a red pickup truck arrived on the spot and the driver spoke to the 2 men I didnt see the driver and dont know what they said but the 2 men stopped following us and we were able to go back to the car and when we got back to the car Alice called the Naxxar Police and we were told to go to Naxxar Police Station to file a report so we went to the police station and we were told by the police there that we should Alice should go to Mosta Polyclinic in order to get a medical examined and to have medical certificate of the incident so we went to the Mosta Polyclinic got examined by the doctors there and got medical certificate here."

Tikkonferma c-certifikat mediku li jinstab ezebit.

In kontro-ezami tirrispondi li hija indahlet biex tiddifendi l-kollega taghha u li ma kienitx is-suggett tal-aggressjoni imma li kienet iffolowjata miz-zewgt irgiel. Tikkonferma li huma kienu mixjin f' passagg pubbliku u mhux fuq propjeta' privata.

Chiara Horne, xehedet fil-8 ta' Novembru, 2023 bil-lingwa Ingliza. Kienet flimkien ma Alice Jane Tribe u Stephanie Hui Min.

Tixhed:

"around 5:00 PM we started walking back from Alice Tower the same way we came and we didn't see any private signs and there were some cars driving past us and nobody stopped us and we reached the point at Gregory's boat yard again and we saw one man stood outside and another man on a roof with someone else. And we they we heard them talking quite heatedly, but we didn't think it was aimed at us and then, just as we were walking past the boatyard, I heard and this stone being thrown

> against a metal car that was next to us and this really scared us we sort of realised this is serious and they're they're aiming this at us and we turned around and we saw the older guy coming out from the house, shouting and pointing at us." . . . omissis . . .," so the older guy came outside, started shouting at us, and was recording us with his phone and was getting quite close to us and the younger guy who stood outside and followed us as well, was also shouting and pointing at us and and getting quite close. "

Iz-zewgt irigiel kienu qed jitkellmu bil-Malti u bl-Ingliz u kienu qed joffenduhom.

Alice haditilhom ritratt bhala evidenza ghal pulizija u f' dak il-punt bdew isiru aktar aggressivi u jersqu vicin u bbew jghidu lil Alison b' mod aggressiv biex thassar ir-ritratti.

> "I think, asking Alison in Maltese aggressively to delete the picture and they kept following us and getting really close to Alice and aggressive the older guy pushed Alice against the wall and I think in an effort to intimidate her or something, but this really scared me and younger guy also pushed Alice against the wall again, and when my colleague Steph tried to separate him and her, he the younger guy went to punch Steph but missed, and again, There was a rubble wall And the younger guy did the same thing he pushed her against it. And Steph tried to separate them. And the younger guy went to punch her, but he missed. And then, The older man tried to so he grabbed Alice from behind and tried ripping her phone out of her hands and it was it was quite a struggle, And she managed to break free, I don't know how, because it was very frightening and aggressive and at that point we realised we had been directed the wrong way and so me and Alison's death had to double bac to walk down the correct road. They continue following us and shouting um. You know, fuck off. Go back to your own country and another man arrives in a red pickup and the three men start talking in Maltese, things seem to come down at that point, but we're still really shaken up and so Alice starts to call the police as we walk back towards the car they follow us up to a point and they continue shouting until we're out of sight, so Alice said that point was on the phone to Naxxar district police and and they recommended her to come in and for all three of us to give our statements and when we were there, or rather when we were driving there, and Alice was really shaken up and she'd said she'd hurt her hand against the wall when they pushed her and so we arrived at the police station and they recommended to Alice to have her injuries seen by the Mosta polyclinic so that well, to each they have to

have it put in her statement formally and Steph as well also had to be seen by the polyclinic in Mosta this took us all all several hours and we were very shaken after the whole experience."

In kontro-ezami tirrispondi li huma kienu fuq triq pubblika, ma kien hemm ebda' sinjali li kienet propjeta' privata u l-karozzi kienu ghaddejjin minn hemm regolarment. It-triq kienet tarmakjata u mal-gnub tat-triq kien hemm hitan. Kienu ghaddew minn hemm xi sieghat qabel biex jimxu lejn it-torri tal-Ghallis. Hi ma hijiex familjari mas-sit tal-incident imma Alice jista' jkun li kienet familjari.

L-affarijiet eskalaw meta Alice hadet ritratt taz-zewgt irgiel.

<u>Provi tad-Difiza</u>

Joseph Grech, xehed fis-seduta tal-14 ta' Mejju 2024. Jixhed li dak in-nhar hu u missieru kienu fir-raba' taghhom, l-Ghallies, il-Maghtab u raw tlett persuni dehlin gol-propjeta' taghhom. Skontu kull ma ghamlu keccewhom minn hwejjieghom. "*Ahna keccejniehom billi ghednilhom biex jitilqu u gew bil-mobile ma wiccna, jigifieri biex jipprovaw ma nafx ghalfejn jippruvaw jipprovokawna x' xi haga bil-mobile u kecceniehom. ..* "

Dawn in-nies gieli gew u dahlu imma qatt ma ghamlu ghaliehom.

Carmel Grech, xehed fis-seduta tal-14 ta' Mejju 2024. Jixhed li hu u t-tifel kienu l-Ghallies fir-raba' taghhom u rawhom jidlu jiehdu xi videoes. Rawhom jiffilmjaw u marru jkellmuhom bil-Malti. Skont hu dawn it-tlett persuni infixlu.

Ikkunsidrat

L-akkadut sehh fil-10 ta' Marzu 2022 ghal habta ta' 17:30 jrs Alice Jane Tribe, Stephanie Hui Min Leow [il-partijiet civile] u Chiara Horne [ix-xhud], li ftit qabel kienu qed jaghmlu osservazzjonijiet ghal insib illegali ghan-nom ta' Birdlife Malta, kienu qed jimxu fid-direzzzjoni tal-karozza taghhom gewwa l-Maghtab in-Naxxar.

Huma rrapportaw li l-imputati segwuhom, insulentawhom u imbuttaw lil Stephanie Leow u Alice Jane Tribe u kkagunawlhom griehi ta' natura hafifa.

Ikkunsidrat

Illi l-ewwel u t-tielet imputazzjonijiet li huma ta' natura konvenjzonali huma preskritti skont il-ligi. L-incident sehh fil-10 ta' Marzu, 2022 u l-imputati dehru l-ewwel darba quddiem din il-Qorti fis-7 ta' Marzu, 2023. Ma gew provduti ebda' referti mill-prosekuzzjoni li setgha jipprova l-kuntrarju. Ghal din ir-raguni l-Qorti ser tghaddi sabiex tillibera lil imputat mill-ewwel u t-tielet imputazzjoni.

Ikkunsidrat,

Illi fit-tieni imputazzjoni l-imputat huwa akkuzat talli hebb ghal Tribe, Alice Jane skond kif iccertifikat minn Dr. Kristen Gauci MD Reg 6537 u hebb ukoll ghal Leow, Stephanie Hui Min skond kif iccertifikat minn Dr Matthew Reg. 4264 u kkagunalhom offiza ta' natura hafifa kif iccertifikat mit-tabib.

Illi fl-ewwel lok il-griehi ta' Alice Jane Tribe u Stephanie Hiu Leow minn huma ipprovati permess ta' certifikati medici li kienu ikkonfermati bil-gurament mit-tobba rispettivi.

Il-Qorti tikkonsidra li l-*parte civile* u x-xhieda okkulari kienu konsistenti fil-verzjoni taghhom tad-dinamika tal-incident. Mix-xhieda jirrizulta li l-imputati Joseph Grech u Carmel Grech imbuttaw u hebbew ghal Alice Tribe li kienet qed tiehu ritratti taghhom bil-mobile. Stephanie Leow marret biex tipprotedi lil Alice Tribe u qalghet daqqa.

Rigward l-argument imressaq mid-difiza li l-parte lesa kienu f' propjeta' privata, il-Qorti tissottolinja li anki' kieku dan gie ipprovat li huwa minnu ma jiggustifikax l-agir tal-imputati li aggredew lil parte lesa ghaliex kienet qed tiehu r-ritratti.

Din l-imputazzjoni giet ipprovata sal-grad rikjest mill-ligi ghal-sejbin ta' htija.

Ikkunsidrat

Fir-rigward tal-piena, tenut kont tal-fatt li l-griehi ikkagunati huma ta' natura hafifa u ma jirrizultax li kien hemm xi incident simili wara li gie rrapportat dan il-kaz, sentenza ta' prigunerija effettiva ma hijiex wahda idonja u huwa aktar ta' deterrent ghal imputati li jkolllhom kundizzjoni li ma jikkommettu ebda' reat iehor fi zmien stipulat.

Decide

Ghal dawn ir-ragunijiet il-Qorti wara li rat l-artikoli 339(1), 221 (1) u 339(1)(e) tal-Kap. 9 tal-Ligijiet ta' Malta filwaqt li qed issib lil imputat **Carmel Grech** mhux hati tal-ewwel u t-tielet imputazzjoni, qed issibu hati tat-tieni imputazzjoni a tenur tal-artikolu 221(1) tal-Kap. 9 tal-Ligijiet ta' Malta u a tenur tal-artikolu 22 tal-Kap. 446 tal-Ligijiet ta' Malta qed tilliberah bil-kundizzjoni li ma jaghmilx ebda' reat iehor fi zmien sena (1) mid-data ta' din l-ordni.

Ai termini ta' l-Artikolu 22(3) tal-Kap.446 tal-Liġijiet ta' Malta, il-Qorti qed tfiehem lill-imputat bi kliem li jifhem, x'inhuma l-effetti tal-Ordni ghal Liberazzjoni Kondizzjonata imposta fuqu u li jekk huwa jonqos milli jikkonforma ruħu ma' tali Ordni hekk imposta fuqu, jew jaghmel reat iehor tul iz-zmien li tali Ordni jkun in vigore, huwa jista' jingħata sentenza ghar-reati originali ta' dawn il-proceduri.

DR. YANA MICALLEF STAFRACE LL.D.

MAGISTRAT

Doris Serpina Sciberras

Deputat Registratur