



In the Court of Magistrates (Malta)
As a Court of Criminal Judicature
Magistrate Dr. Yana Micallef Stafrace LL.D.

The Police

(Diane Vella)

Vs

Paul Christopher Fitzpatrick

7 th April 2025

The Court

Having seen the charges against against Paul Christopher Fitzpatrick son of N/A on the 13/03/1976 u residing Mensija Gardens, Fl 5, Triq ta' Marmora, San Gwann, ID 0171383A.

As you have been charged with having on the -16 th of March , 2020 at about 23.15 hrs in Triq Mikiel Anton Vassalli, Gzira drove vehicle with registration no KLY101;

1. And through imprudence negligence or unskillfulness in his trade or profession or through non-observance of any regulation caused any fire or any damage spoil or injury caused Steven Anthony Muscat grievous injuries with any of the effects mentioned in article 218 of Chapter 9 of the Laws of Malta as certified by Dr Nicholas Abela MD of MDH.

The Prosecution requests that the mentioned person be disqualified from all his driving licenses

Having seen articles 328(b) of Chapter 9 of the Laws of Malta

Having seen all the witnesses produced by the Prosecution

Having seen that the testimony of the accused and evidence produced by the accused.

Having seen all the documents, testimony, and evidence in the proceedings.

Having seen the Oral submissions.

Considerations of this court

PS 103 Sandro Mangion gave testimony by means of an affidavit and viva voce regarding his involvement in the case

Steven Muscat gave the following testimony:

Pros: Were you involved in a motor vehicle accident?

Wit: Yes

Pros: Can you tell us where and when it happened?

Wit: So it was I believe on the 17th or 16th of March.

Pros: Which year?

Wit: It was 2020.

Pros: Ehe, the time?

Wit: Half past eleven at night.

Court: Ok Day or at night?

Wit: At night,

Pros: Where?

Wit: So I was on the road coming out of the tunnel then
near the skate park near the University leading towards the
flyover of Kappara,

Pros: Orajt which locality and leading to which locality
again?

Wit: So from the direction of the University
roundabout towards Kappara towards St.Julians

Court: You were cause I'm not understanding you were in the
tunnel or on top in the tunnel?

Wit: Between the tunnel and the flyover.

Court: Ok,

Wit: Where the accident happened.

Pros: What were you driving?

Wit: So I was on my bike it was a Kawazaki.

Pros: Number plate of the bike?

Wit: I can't remember it now sorry.

Pros: Explain the dynamics of the accident?

Wit: I was driving home in my lane the road was pretty much empty I noticed a car in the left lane pull in the middle lane without indicator so I was a bit aware so I started to slow and I moved a bit towards the right in my lane then I noticed right at the last moment as i was about to pass him that he switched into my lane without indicating and at this moment I didn't really have any option and we crashed.

Pros: Do you recall who was the driver of the vehicle?

Wit: I only saw him very briefly,

Pros: Can you indicate who?

Wit: I do believe it's the gentleman standing right there.

Court: The witness indicated the accused.

Pros: And do you remember the number plate?

Wit: I didn't see it no.

Pros: Or something you remember of the vehicle or the colour?

Wit: I remember it was white silver or white possible a higher car I don't remember.

Pros: What injury do you sustain?

Wit: I broke my left arm which I write with the one I write with and I have a discharge letter from the hospital with my injuries.

Pros: So you were in hospital for how long?

Wit: I believe I was in hospital for a day or two for investigations can't remember exactly how long I was in there but I had X-rays done and Scans obviously a lot of pain had a lot of superficial injuries but the main injury was my the broken arm.

Pros: Your bike sustained any damages?

Wit: Yes there was approximately 2,000 euros worth of damage to the bike.

Pros: Ok, that's it I don't have any further questions your honor.

Court: Cross Examination?

Adv: So Mr. Muscat would I recall to state that you got a video of the accident?

Wit: There was a video yes and I longer have as I had to pass it to the police I handed over to the police yes.

Adv: You still have a copy of it?

Wit: No I don't.

Adv: You don't have a copy of it anymore, am I correct to state that you were driving your bike coming out of the tunnel correct Mr. Fitzpatrick's car was about to start going up the flyover?

Wit: Not really not it was in the left lane and I noticed him and then he changed two lanes in front of me to pass him.

Adv: Do you agree with me that the road was empty except for you and him?

Wit: Yes there was another car under the tunnel as I passed.

Adv: Which you over took?

Wit: Yes.

Adv: So at the moment of impact it was just you and him?

Wit: That's correct.

Adv: And do you agree that Mr. Fitzpatrick's car was several a great several metres ahead of you?

Wit: No.

Adv: You don't agree?

Wit: No.

Adv: So you do not agree you came up from behind him?

Wit: Pardon me?

Adv: You agree you came from behind him? His car was approaching from the side,

Court: were you at any point in the same lane as his?

Wit: In the last half a second he pulled in front of me.

Adv: Do you agree that he was in front of you and you were behind?

Wit: Yes.

Adv: Yes do you agree that the point of impact with between your bike and Mr. Fitzpatrick`s car was right in the middle of the back of his car?

Wit: I`d say it was maybe slightly over to the right because I was trying maneuver around at that point.

Adv: Do we agree you took no averse action driving straight into him?

Wit: Pardon me?

Adv: We agree you did not took no averse action to avoid hitting him from the back?

Wit: Ofcourse I took a everse action I was very ... and I was attempted to turn but he in front of me I only had one second but.

Court: Inspector theres no sketch right?

Pros: No.

Adv: Your Honor there`s a video

Court: If there`s a video so much better

Adv: Yes.

Court: I want to see this video if it exists.

Adv: Yes

Adv: Do you agree that you did not brek at all?

Wit: I was breaking yes.

Adv: You were breaking, what if I suggest you infact this video we have it so it going to emerge shows that actually you were speeding at quite high velocity,

Wit: I disagree.

Adv: Did you also disagree that at the moment of impact Mr. Fitzpatrick`s car had already established itself in the right lane where the impact had occurred.

Wit: No I completely disagree yes.

Adv: You completely disagree? If I had to tell you that this video actually shows you speeding from the beginning of right after coming out of the tunnel and catching up to him as he`s about to take start the flyover and it shows that he`s in the right lane at the point of impact?

Wit: I disagree.

Adv: The video speaks for itself.

Court: Anything else?

Adv: Can I continue the cross Mr.Muscat you had a GO PRO camera how are you taking the video of you driving?

Wit: That`s right yes.

Adv: Through a GO PRO?

Wit: Through a GO PRO that was attached to my helmet.

Adv: That was attached to your helmet, when did the footage start?
When did you start recording?

Wit: I normally record my whole ride but with the nature of the accident the camera was damaged and infact I lost all of my footage.

Adv: You`ve lost all of your footage,

Wit: Unfortunately yes.

Adv: But footage you did pass on part of the footage to who?

Wit: I believe it was Sargent Mangion it was on my What's app message.

Court: I can`t understand this if the camera is damaged how could you pass the evidence to the inspector?

Wit: I use my phone that was seeing screen at the moment I was injured
I had people helping me

Pros: Video tal-video.

Adv: So you passed on what you could ... on of the footage to Sargent Mangion?

Wit: I believe so yes.

Adv: How did you do so?

Wit: A Whats up message.

Adv: And is your phone on you at the moment?

Wit: No.

Adv: No you don't have the phone here?

Wit: Not the same phone I have a different phone now.

Adv: And your What`s app account the same?

Wit: No.

Adv: You`ve change your What`s app account?

Wit: Yes.

Adv: Have you change your number since then?

Wit: Yes.

Adv: And why did you change your number?

Wit: What I have right now is my work phone and the other phone at that time was my personal phone

Adv: Ok are you still able to access your What`s app chat?

Wit: Absolutley yes just its not here with me right now.

Adv: So I want to suspend and have it exhibit it as part of my cross examination cause he just testify.

Court: Can you exhibit your What`s app chat which has the video?

Wit: Right now no.

Court: But at a certain point?

Wit: At a certain point yes absolutely.

Court: Ok Thank you.

Dr Nicholas Abela testified that he examined Steven Anthony Muscat at the time of the accident and his injuries were of a grievous nature

Ahmad Al Saed, gave the following testimony

Pros: Mr. Al Saed did you happen to see An accident you spoke to the police regarding an accident?

Wit: Yes I think like it was like 2 years ago.

Court: Where was it?

Wit: It was like in Gzira.

Pros: Was there a particular place maybe so that we,

Wit: In the highway.

Pros: In the highway, maybe there`s a shop or a a roundabout?

Court: In the bypass he`s talking about.

Wit: In the roundabout actually.

Pros: Which roundabout sir please?

Wit: Like,

Pros: Is it maybe next to the skatepark maybe?

Wit: No after the skatepark.

Court: In which direction the roundabout?

Wit: Like I`m coming from the roundabout and like I`m going to St. Julian.

Court: So you`re talking about the roundabout in besides Sliema and Kappara?

Wit: Yeah if you go down you can go to like left you can go to San Gwann if you go right you go to.

Court: That one roundabout?

Wit: Yes.

Pros: What did you see sir?

Wit; To be honest I don't remember very well but I remember only like the motorbike and the other car it was like Taxi or something.

Court: How did the accident happen?

Wit: I didn't I cannot remember exactly to be honest but I remember like the motorbike was a little bit speeding.

Court: And this was in front of you when it occurred this accident it occurred in front of you? Ahead of you?

Wit: Yes.

Pros: And do you remember the car crashing with the bike?

Wit: No no.

Adv: So sir if you remember you were driving outside of the the tunnels going in the direction of St. Julians correct?

Wit: Actually I was going down from the skate park.

Adv: Ok, into that direction towards St. Julians and so you had the high way in front of you correct?

Wit: Yes.

Adv: Is it correct that the motorbike zoomed past you?

Wit: Yes.

Adv: So the motorbike was obviously was going faster than you were going?

Wit: Yes.

Adv: Is it also correct to state that the Taxi was ahead of you and ahead of the bike?

Wit: I cannot tell sir because it was 2 years ago I can't remember.

Adv: I understand perfectly would it be correct to say that the motorbike hit the back of the Taxi.

Wit: I wouldn't say that because it was like half of minutes to be honest it was a long time I don't remember.

Adv: Ok, but you definitely remember the bike zooming past you?

Wit: I remember only one thing I remember like after the accident and I remember like the motorbike was a little bit speeding that only what I remember to.

Adv: And the accident happened ahead of you in front of you right?

Wit: Yes.

Court: What do you mean by speeding?

Wit: It's like,

Court: What was your speed?

Wit: I cannot tell you exactly how fast he was to be honest but it was like.

Court: How fast were you going? What was your speed?

Wit: I'm telling you I'm like coming from the,

Court: What was your speed?

Wit: 60.

Adv: Ok, let's establish I know it's been a long time and you're not in trouble here so you no need to worry, let's try establish what happened you are coming down from the skate park the bike past by and over took you?

Wit: The motorbike was passing from under the tunnel I guess.

Adv: And the accident the impact it happened in front of you not behind you?

Wit: No In front of me not behind me.

Adv: In front of you yes, so if the bike over took you speed by you and the accident happened in front of you than the Taxi was obviously ahead of you?

Wit: Yes the Taxi it was like in front of me as well yes but when the accident they was in front of me.

Adv: Nothing else your honor.

Paul Christopher Fitzpatrick gave the following testimony

Avu: Mister Fitzpatrick, can you tell the court what you know about this accident?

Xhud: Absolutely I was on the skatepark roundabout in Msida.

Avu: First and foremost do you remember the date?

Xhud: It was March 2020, I think the 16th I'm not exactly sure. So I was on the roundabout of the skatepark in Msida and I took the exit northbound towards Kappara junction I came down the merging lane I changed lane into the left hand lane and I noticed there was a slow moving vehicle ahead the distance in the left hand lane. I then decided to move into the righthand lane I checked my righthand wing mirror. There was nothing visible in my righthand wing mirror I gradually changed lane into the righthand lane I was doing 60 kilometres an hour in fifth gear. My left foot was resting on the floor of the car and my right foot was gently on the accelerator. Approximately 3 seconds 4 seconds after I had made the lane change, the first I saw of Mister Muscat and his motorcycle was my interior rearview mirror. That is the one that's attached to the windscreen of the car lit up from the headlight of the motorcycle. And then there was the impact, the collision, which was a very hard collision I felt the car hop at the back and I then pulled over and ran back to see what had hit me.

Avu: I'm going to show you these photos which then you'll have to present them?

Qorti: Who took the photos?

Xhud: I took them.

Qorti: So you're exhibiting them?

Xhud: Yes.

Qorti: Can you explain what DOCS are they, please? Well, how many are there?

Xhud: Three I took these photographs the day after the accident. They show that the car was hit from the rear, not from the side PCF 1 and PCF 3 show that the quarter panels are not damaged in any way. So there's no question that the bike hit me on the side. It was a direct impact to the back of the vehicle, which is shown in PCF 2 you can see the damage was completely on the rear of the car and not the side.

Pros: Cross examination so can you tell us exactly if you noticed the motorcycle coming from backwards, coming from behind?

Xhud: The first I saw of the motorcycle, as I said in my statement, was in my rearview mirror. That is the one that's inside the car, connected to the inside of the windscreen. That's the first I saw of the motorcycle.

Pros: And what did you do when you saw the motorcycle?

Xhud: I looked into the mirror because it was lit up with a light at that stage, I was doing 60 kilometres an hour there was no way even if I planted the accelerator, I could not match the speed that the motorcycle was coming at from behind me.

Qorti: So you're saying it was coming at a speed?

Xhud: Very fast speed, as the witnesses mentioned in one of the previous appearances that he was. He passed them at speed there was a witness, but they didn't see the accident, they just remember him passing at a very high speed.

There were several attempts to produce CCTV footage but none was found

Considerations of this Court

There is a conflict of evidence regarding the dynamics of the accident and therefore the level of evidence beyond a reasonable doubt has not been reached and the accused is not guilty of the charge

Decide

For these reasons and after having seen Article 328(b) of Chapter 9 of the laws of Malta finds the accused Paul Christopher Fitzpatrick not guilty of the charge.

Magistrate Dr Yana Micallef Stafrace LL.D.

Doris Serpina Sciberras

Deputy Registrar

