



The Court of Magistrates (Malta)

As a Court of Court of Criminal Judicature

Magistrate Dr. Nadine Sant Lia

B.A; LL.M (Kent); LL.D, Barrister at Law (England & Wales)

Case Number: 18/2025

The Republic of Malta

Vs.

Mark Boyce

Today, 13th of May 2025

The Court,

Having seen that Mark Boyce, fifty-five (55) years old, son of James and Winne nee' Molloy, born on the 27th of February of the year 1969 in the United Kingdom, and residing at Sunrise Court, Flat 21, Tamar Street, Saint Paul's Bay, Malta, holder of Maltese identity card number 0165594A, was charged with having:

On the twenty-fifth (25th) of December of the year two thousand and twenty-four (2024), sometime between half past seven in the evening (19:30HRS) and half past eight

in the evening (20:30HRS), in Anchor Pub, Triq il-Kahli, Saint Paul's Bay and/or in other places in these islands:

- 1. Without the intent to kill or put the life of Gregory Stephen Harvey in manifest jeopardy, caused the same Gregory Stephen Harvey harm to the body or health which harm is of a grievous nature as certified by Medical Doctor Elizabeth M. (Med. Reg. No. 4430);*
- 2. And also with having, on the same day, place, time, and in the same circumstances, uttered insults or threats not otherwise provided for in this Code, or being provoked, carried your insults beyond the limit warranted by the provocation;*
- 3. And also with having, on the same date, place, time, and in the same circumstances, wilfully disturbed the public good order or the public peace.*

This Court is being humbly requested to:

- i) To provide for the security of Gregory Stephen Harvey as the Court sees fit and necessary and under all the conditions that deems appropriate, issues an order of protection in terms of Article 412C of Chapter 9 of the Laws of Malta;*
- ii) To try the case after taking cognisance of the conviction sheet and the identification document of the accused;*
- iii) That in the case of guilt, in addition to the punishment in accordance with the law, orders the accused to pay the costs incurred in terms of Articles 15A, 532A, 532B and 533 of the Criminal Code, Chapter 9 of the Laws of Malta;*
- iv) That in the case of guilt, in addition to punishment in accordance with law, this Court is requested to apply Articles 382, 382A, 383, 384 and 385 of Chapter 9 of the Laws of Malta for the security of the injured party.*

Having seen that the prosecution read out and confirmed on oath the charges during the sitting dated 9th April 2025.¹

Having heard the prosecution declare during the sitting dated 9th April 2025 that in so far as the first (1st) charge is concerned it is withdrawing Article 218 and that the charge only refers to Articles 214, 215 and 216 of the Criminal Code, Chapter 9 of the Laws of Malta.

Having seen that during the examination of the accused in the sitting of 9th April 2025 done in accordance with Article 390(1) and 392 of the Criminal Code, Chapter 9 of the Laws of Malta, the accused pleaded guilty to the charges against him.²

In view of the accused's voluntary and unconditional admission of guilt, the Court warned him in the most solemn manner of the consequences arising out of his guilty plea and granted him a reasonable time within which to retract such guilty plea should he so wish. After the Court granted this time to the accused, and after consulting with his legal counsel, the accused reiterated that he is guilty as charged.³

In view of this declaration, duly reiterated, the Court has no option but to find the accused guilty as charged in accordance with Article 392A of Chapter 9 of the Laws of Malta and could proceed to deliver judgment against him.

Having seen that there exist no valid reasons in accordance with Article 392A(3) of Chapter 9 of the Laws of Malta for the Court to doubt the validity of such plea of admission, or that the accused is not guilty of the crimes with which he is charged. Therefore, the crimes are sufficiently proven.

¹ Page 36-37a of the acts of the proceedings

² Page 38 of the acts of the proceedings

³ Page 36-37a of the acts of the proceedings

Having seen the accused's conviction sheet dated 13th January 2025.⁴

Having seen the records of the proceedings, as well as the documents filed together with the charge sheet and the identification document of the accused and the particular circumstances of this case.

Having heard the final submissions made by the prosecution and defence counsel on the sitting of 9th April 2025.⁵

Having seen that the case was put off for judgment for today.⁶

Having Considered

The Facts of the Case

This case concerns an incident which occurred on the 25th of December 2025. The victim Gregory Stephen Harvey reported to the Qawra Police Station alleging that he was punched in the face by the accused Mark Boyce while he was with his partner in a pub. It transpired that the victim was certified to have suffered grievous injuries. The accused was charged accordingly.

Having Considered

The Punishment

That in view of the accused's voluntary and unconditional admission of guilt, in the presence of his legal counsel, the Court has no alternative but to find him guilty of all charges brought against him and proceed to pass on the accused

⁴ Doc. IM2, Page 44-45 of the acts of the proceedings

⁵ Page 60-63 of the acts of the proceedings

⁶ Page 36-37a of the acts of the proceedings

such sentence as would according to law be passed on an accused convicted of the offence.

The Court in its deliberations concerning the punishment took note of the following factors:

1. The accused's conviction sheet dated 13th January 2025 is presented in the acts of the proceedings. The Court considers that for the period during which the accused has been residing in Malta, the said conviction sheet is untarnished.⁷ However, there is no evidence with regards to the possibility of crimes being committed by the accused in other countries.
2. The accused registered a guilty plea at the first opportunity.⁸ Having taken note of local and foreign jurisprudence concerning mitigation of punishment when the accused pleads guilty at an early stage of the proceedings, the Court considers that the accused's admission shall serve in his favour.⁹
3. In addition, the Court observes that the accused's admission is unconditional.
4. The accused cooperated with the police during investigations. He released a statement and answered all questions put to him. The accused chose to sign his statement.¹⁰
5. The Court considers the grave nature of the first charge brought against the accused, which according to Article 216 of the Criminal Code,

⁷ Doc. IM2, Page 44-45 of the acts of the proceedings

⁸ Page 38 of the acts of the proceedings

⁹ **The Republic of Malta vs. Nicholas Azzopardi**, Criminal Court, 24/2/1997; **The Police vs. Emmanuel Testa**, Court of Criminal Appeal, 7/7/2002; App. No: 385/2015, **The Police vs. Andre Falzon**, Court of Criminal Appeal (Inferior), 19/11/2015; App. No: 99/2017, **The Police vs. Godfrey Formosa**, Court of Criminal Appeal (Inferior), 26/10/2017; *Archbold 2021 Sentencing Guidelines*, Thomson Reuters, London, 2021; and, *Blackstone's Criminal Practice 2006*, Oxford University Press, Oxford, 2005

¹⁰ Doc. IM6, Page 53-55 of the acts of the proceedings

Chapter 9 of the Laws of Malta, carries the penalty of imprisonment from one (1) year up to seven (7) years.

6. The Court notes that the second charge and third charge carry the punishment for contraventions and therefore, according to Article 17(d) of the Criminal Code, Chapter 9 of the Laws of Malta, the penalty which should be imposed on the accused shall be that assigned for the gravest charge being the first charge.
7. In its final submissions the prosecution reiterated that in lieu of the fact that the accused has been living in Malta for the past 10 years and has a clean conviction sheet, and further that he registered a guilty plea at the earliest stage, the Court should consider to pronounce a one (1) year prison sentence suspended by three (3) years. In addition, the prosecution asked for a restraining order to be issued in favour of the victim Gregory Stephen Harvey for three (3) years.
8. The defence in its final submissions concurred with the submissions made by the prosecution.
9. That Court considers that it is not bound by what the parties propose in terms of punishment, however, it considered that the penalty suggested is legally pronounceable and falls within the parameters set by the Criminal Code, Chapter 9 of the Laws of Malta.
10. That Article 142(1) of the *Criminal Justice Act* 2003 of England establishes five principles which are to be followed when the Court imposes penalty, these being:

“(a) the punishment of offenders, (b) the reduction of crime (including its reduction by deterrence), (c) the reform and rehabilitation of offenders, (d) the

protection of the public, and, (e) the making of reparation by offenders to persons affected by their offence”.

11. Therefore, whoever is called upon to judge should not only look at the interests of the convicted person but should also ensure the protection of the interests of the victim or victims of the crime and of society in general by giving that punishment which should serve as a punishment for the perpetrator of the crime, which leads to the reduction of the commission of other crimes, which leads to the rehabilitation and reform of the offender, which provides the necessary protection to the public and which the offender makes reparation for the wrong done.
12. On this point, the Court took note of the judgment given by the Criminal Appeal on the 28th November 2006 **The Republic of Malta vs. Rene sive Nazzareno Micallef**.

Having taken all these considerations into account, the Court notes that although the ideal punishment is that of imprisonment, there are sufficient reasons which warrant that the term of imprisonment is suspended, in accordance with the terms of Article 28A of the Criminal Code, Chapter 9 of the Laws of Malta.

Decide

In view of the above, the Court, after having seen Articles 15A, 214, 215, 216, 338(dd), 339(e), 382, 382A, 383, 384, 385, 412C, 532A, 532B u 533 of the Criminal Code, Chapter 9 of the Laws of Malta, finds the accused Mark Boyce, upon his own admission, guilty as charged and sentences him to **one (1) year** imprisonment, however, upon application of Article 28A of the Criminal Code, Chapter 9 of the Laws of Malta, orders that such sentence shall not take effect

unless, during a period of **three (3) years** from the date of this order, the offender commits another offence punishable with imprisonment.

In terms of Article 28A(4) of the Criminal Code, Chapter 9 of the Laws of Malta, the Court explained to the accused in plain and simple language his liability under Article 28B of Chapter 9 of the Laws of Malta, if during the operational period of this suspended sentence he commits an offence punishable with imprisonment.

In terms of Article 382A of the Criminal Code, Chapter 9 of the Laws of Malta, the Court orders the issue of a **Restraining Order** in respect of the offender for the protection of the security of Gregory Stephen Harvey for a period of **three (3) years**.

Communication: Commissioner of Police

Furthermore, in view of the fact that no experts were appointed in this case, the Court abstains from taking further cognisance of the prosecution's request in terms of Article 533 of the Criminal Code, Chapter 9 of the Laws of Malta.

Finally, the Court, after having seen Article 392A of the Criminal Code orders that this judgment together with the records of the proceedings be transmitted to the Attorney General within six (6) working days in terms of law.

Delivered today, the thirteenth (13th) of May 2025, at the Courts of Justice in Valletta, Malta.

Dr. Nadine Sant Lia

Magistrate

Courtney Zahra

Deputy Registrar