



MALTA

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

**MAGISTRATE DR.
JACQUELINE PADOVANI**

Sitting of the 24 th April, 2003

Number. 959/2002

POLICE
INSPECTOR NEIL HARRISON
INSPECTOR DENISE MULA
VS
JOHN SIVE JEAN AGIUS
VIVIEN HAZEL AKHARELE ENAHORO

The Court,

Having seen the charges brought against the accused John sive Jean Agius, 57 years, son of Hugh and Mary nee Rizzo, born Paola on 6th October 1945, and residing at 36, Qormi Road, Attard and holder of ID Card No 834245M and Vivien Hazel Akharele Enahoro, 41 years, daughter of Edward and Kathleen nee Luck, born Lagos Nigeria on 7th November 1961 and residing at no 4, Linstead Street, London MW6 2HB england, holder of British passport no 009673419 issued in UK on 6th August 1993 and charged them with having in these

islands on the night of 20th and 21st November 2002, and during the last preceding 10 months although at different times and committed in pursuance of the same design:

a) together with another one or more persons in Malta or outside Malta, conspired for the purpose of selling or dealing in a drug (cocaine) in these islands against the provisions of The Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, or promoted, constituted, organised or financed the conspiracy.

b) Supplied or distributed, or offered to supply or distribute the drug cocaine, specified in the First Schedule of the Dangerous Drug Ordinance, Chapter 101, of the Laws of Malta, to person/s, or for the use of other person/s, without being licensed by the President of Malta, without being fully authorised by the Internal Control of Dangerous Drugs Regulations (GN 292/1939), or by other authority given by the President of Malta, to supply his drug, and without being in possession of an import and export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of paragraph 6 of the Ordinance and when he was not duly licensed or otherwise authorised to manufacture or supply the mentioned drug, when he was not duly licensed to distribute the mentioned drug, in pursuance of the provisions of Regulation 4 of the Internal Control of Dangerous Drugs Regulations (GN 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

c) Had in their possession the drug cocaine, specified in the first schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, when they were not in possession of an import authorisation, or of any export authorisation issued by the chief Government Medical Officer in pursuance of part 4 and part 6 of the ordinance, when they were not licensed or otherwise authorised to manufacture or to supply the drug, and were not licensed or otherwise to manufacture or authorised by the Dangerous Drugs Internal Control rules (GN 292/1939), to be in possession of the drug, and failed to prove that the mentioned drug was supplied for their personal use according to a medical prescription as provided in the

Informal Copy of Judgement

said regulations (GN 292/1939) as subsequently amended and in breach of the dangerous drugs ordinance chapter 101 of the Laws of Malta, which drugs were found in such circumstances indicating that the possession was not intended for their exclusive use.

Vivien Hazel Akharele Enahoro is also charged with having on the night of 20th and 21st November 2002, and during the last preceding 5 months;

d) imported, or caused to be imported, or took any steps preparatory to importing any dangerous drug (cocaine) into Malta in breach of section 15A of Chapter 101 of the Laws of Malta.

Having heard all the evidence.

Having seen all documents exhibited in the records of the proceedings.

Having seen the consent of the Attorney General of 2nd December 2002 and the consent of the Attorney General in terms of Article 22(2) Chapter 101 of the Laws of Malta and the Attorney General's decision not to indict the accused before the Criminal Court.

Having seen the request of the prosecution to the effect that the proceedings related to both accused be made separate so that judgement may be pronounced with regard to the accused Enahoro.

Having seen the Court's decree of the 9th April 2003, acceding to the said request.

Having heard the defendant Enahoro's plea of guilt to all charges brought against her.

Having heard the oral submissions of the parties.

Deliberates:-

On the strength of the accused Enahoro's plea of guilt, the Court finds Vivienne Hazel Akharele Enahoro guilty as

charged and after having seen Art.15A, 22 Chapter 101, Reg 4 and 8 of the Internal control of Dangerous Drugs Regulations (G.N. 292/1939) and Part 4 and Part 6 of the First Schedule of the Dangerous Drugs Ordinance Chapter 101, Art 15 Chapter 217, and condemns her to a period of imprisonment of 3 years, time spent in preventive arrest being deducted from the said period of imprisonment.

The Court further condemns the accused to pay a Lm2000 fine, declares the accused an illegal immigrant and orders her removal from these islands according to law after she serves the prison sentence.

The Court declares that in awarding this time of imprisonment, it has taken into consideration the gravity of the charges brought against her, **the actual amount** of illegal substance imported and the state of vulnerability of the accused.

The Court furthermore, orders that illegal substances seized by the police and exhibited in these proceedings, be confiscated and destroyed **only after** the proceedings against the co-accused Jean Agius be definitively terminated.

MAGISTRAT
MARICA CARUANA
DEP.REG.

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