



MALTA

CRIMINAL COURT

**THE HON. CHIEF JUSTICE
VINCENT DE GAETANO**

Sitting of the 7th April, 2006

Number 5757/2006

The Police
(Inspector Paul Vassallo)
(Inspector Carmelo Bartolo)

v.

Ezechukwu Prince Okeke

The Court:

Having seen the application filed by the Attorney General on the 6 April 2006 requesting this court to revoke the decree of the Court of Magistrates (Malta) as a Court of Criminal Inquiry of the 5 April 2006, whereby the said Ezechukwu Prince Okeke was granted bail under several conditions, including that of a personal guarantee of Lm5,000;

Having heard counsel for the applicant, Dr Donatella Frendo Dimech, as well as counsel for the respondent, Dr

Leslie Cuschieri, during to-day's sitting; having also heard on oath Inspector Carmelo Bartolo; having taken note of the record of the proceedings against the aforementioned Okeke, which proceedings in committal stage commenced on the 1 April 2005 and to this day appear to have been not yet fully concluded;

Considers:

The grounds adduced by the applicant for requesting the revocation of the decree granting bail are that, given the gravity of the offences with which Okeke stands charged, to wit offences all connected with money laundering, and given also the fact that Okeke, who hails from Nigeria, has no particular ties with these Islands, the granting of bail gives rise to the danger that the said Okeke will abscond, even by leaving these Islands. The Attorney General also contends that if bail is granted – as in fact it has been granted – this would place respondent “in an illegal state of affairs” since prior to his arraignment in Court more than a year ago his visa had expired.

In this connection this Court cannot but observe that it has taken the prosecution more than a year to collect and compile the necessary evidence, which does not appear to be particularly voluminous, in this case. If the system cannot provide that such a case be dealt with more expeditiously – particularly when a foreigner is involved – the prosecution cannot expect that the accused continue to be kept under arrest. In balancing the interests concerned, in the circumstances of the instant case the length of respondent's detention outweighs the perceived danger of his absconding. If the State cannot provide for a speedier system in such cases, it cannot on the other hand expect persons in the position of respondent Okeke to be detained virtually indefinitely. Moreover, the fact that Okeke's visa had expired before he was arraigned in Court cannot be used as an excuse to deny him bail.

This said, however, the Court is not impressed with the Lm5,000 personal guarantee imposed by the first Court. This Court has repeatedly stated that a personal

guarantee should be used only in the extreme cases, and in any case the amount of the said guarantee should always respect the rule enunciated in Section 576 of the Criminal Code. In other words, the fact that a personal guarantee is being imposed does not justify the Court in increasing the sum beyond what would otherwise be required under the said Section 576.

For these reasons this Court will not allow the request by the Attorney General simply to have Okeke re-arrested and kept in detention, but is going to vary condition number seven (7) relating to the amount and to the mode of the security.

For these reasons the Court revokes only condition number seven (7) of the decree of the Court of Magistrates (Malta) as a Court of Criminal Inquiry of the 5 April 2006 and substitutes therefor the said condition: “(7) that in order to guarantee the other conditions, including all that is required in terms of Section 579 of the Criminal Code, as well as the conditions of his stay at Suret il-Bniedem as stated on pages 241 to 245 of the record of the proceedings, the said Okeke (i) either produce a sufficient surety who shall enter into a written recognizance in the sum of Lm1,000 – should the accused opt to produce such a surety, he is to give prior notice of not less than 24 hours of the proposed surety and this decree granting bail will not have any effect unless and until the surety is approved by this Court, or (ii) deposit the said sum of Lm1,000 under the authority of this Court and by way of security”; and confirms the rest of the decree of the 5 April 2006 including that part of the decree which appears on page 246 of the record of the proceedings.

Until respondent Okeke complies with the new condition number seven (7) he is to be kept in detention.

Informal Copy of Judgement

< Final Judgement >

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