



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF COMMITTAL**

**MAGISTRATE DR.
JOSEPH A. APAP BOLOGNA**

Sitting of the 12 th March, 2008

Number 149/2008

**The Police
(Inspector George Cremona)
(Inspector Mario Haber)**

Vs

Glenn Carlos Alexander Mosby

The Court:

Having seen the European Arrest Warrant issued by the German Authorities, a scheduled country in terms of article 5 of Legal Notice 320 of 2004, against Glenn Carlos Alexander Mosby, hereinafter to be known as the person and wherein it is stated that the person is wanted by the same authorities for the serving of the remaining period of detention (three (3) years and six (6) months)

following a judgement, after trial, in connection with his participation in armed robberies and burglaries extraditable crimes as described in the same Warrant and with respect to which his surrender to Germany is being sought.

Having seen the certificate issued by the Attorney General in accordance with article 7 of the same legal notice and marked document GC1 (page 5 of the acts).

Having seen the request for the extradition of the person to the above mentioned Authority.

Having seen all the acts relating to this case and exhibited in accordance with the law.

Having heard the parties.

Having considered

That on the 22nd of February 2008 (vide page 3 et seq ibid), the initial hearing took place and on the same date the Court gave the relative decree (page 24, 25 and 26 ibid) wherein it was decided that Glenn Carlos Alexander Mosby, arraigned under arrest in front of the Court was the person against whom the European Arrest Warrant involved in this case was issued, the above mentioned certificate was issued by the Attorney General against the person and therefore the same Court set a date for the extradition hearing.

Having considered

That it appears from the same acts that the person, at first, did not consent to his surrender to the German Judicial Authority involved. In fact, as it results from page 36 of the same acts, the person is not contesting that the offences involved are extraditable offences moreover in this regard he declares that, there exists no bar to his extradition (vide article 12 and article 14 of the same legal notice). However, he referred to article 23 ibid since he contended that, from the arrest warrant it does not result that the person was convicted and sentenced in his presence. Here it is to be pointed out that such an allegation had to be proved by the same person due to

the fact that any issue brought forward by him has to be proved, on a basis of probability by the person who alleges it. In this regard however the Court requested the Prosecution to produce evidence, which request was abided by as can be seen from the documents exhibited during the sitting of the 5th of March 2008. in fact the Court is fully satisfied that the person was not tried or convicted “in absentia” (vide also page 9 of the acts from which it appears that paragraph (d) is not in any way marked and therefore proves that the person was not tried “in absentia”).

Having considered

That during the same sitting, the person, in the presence of and through his defence counsel gave his consent for his surrender to the German Judicial Authority in order to serve the remaining period of detention as mentioned and specified in the arrest warrant.

In view of the above and in accordance with article 45 (2) (a) of Legal Notice 320 of 2004 the Court orders that Glenn Carlos Alexander Mosby as described in the arrest warrant, be kept under custody to await his extradition to Germany which is to take place within ten (10) days from today. Moreover having seen articles 25 and 15 (5) of the same Legal Notice together with article 16 of Chapter 276 of the Laws of Malta, the Court is informing the person that if he feels that his human rights, have been, are being or are going to be, infringed he has a right of redress under article 46 of the Constitution of Malta or under Chapter 319 of the Laws of Malta.

This decision is to notified to the Attorney General.

< Final Judgement >

Informal Copy of Judgement

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