

Kopja Informali ta' Sentenza



**QORTI TAL-MAGISTRATI (MALTA)
BHALA QORTI TA' GUDIKATURA KRIMINALI**

**MAGISTRAT
DOREEN CLARKE**

Seduta tas-26 ta' Novembru, 2008

Numru. 210/2008

**The Police
(Inspector Priscilla Caruana)**

-vs-

Charles Ikheloa

Today the 26th of November, 2008

The Court,

Having seen the accused Charles Ikheloa (ref no 06V - 025) 29 years of age, born in Uromi, Nigeria on the 15th April, 1978, son of Ikheloa and Mary and residing in Tent Village Open Centre, Hal Far, Birzebbugia.

Pagna 1 minn 5

Qrati tal-Gustizzja

Was charged:

With having on the 14th March, 2008 at about 08:30am at the Tent Village Open Centre, Hal Far, Birzebbugia reviled, threatened or caused bodily harm to Mario Gauci from Swieqi, person lawfully charged with a public duty, while in the act of discharging his duty or because of having discharged such duty, or with intent to intimidate or unduly influence him in the discharge of such duty;

Also for having on the same date, time, place, and circumstances assaulted or resisted by violence or active force not amounting to public violence, Mario Gauci, a person lawfully charged with a public duty when in the execution of the law or of a lawful order issued by a competent authority;

Also for having on the same date, time, place and circumstances caused injuries of a slight nature on Mario Gauci as certified by Dr.E.Scerri MD of Qormi Health Centre;

Also for having on the same date, time, place and circumstances wilfully disturbed the public good order of the public peace;

And also for having on the same date, time, place and circumstances offended Mario Gauci by words, gestures, or in any other manner;

The court is requested to, in addition to, in lieu of the punishment applicable to the offence, apply the provisions of Section 383 of the Criminal Code for the safety of Mario Gauci.

Having seen the consent of the Attorney General for this case to be dealt with summarily and having seen that the defendant did not object to the case being so dealt.

Having seen the acts of the proceedings.

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Having heard the evidence.

Having heard the oral submissions made by the parties.

Having seen sections 95, 96, 221 338(bb) and 338(dd) of Chapter 9 of the Laws of Malta.

Considered:

That the facts of this case may be briefly summarised as follows.

That defendant was resident at the Hal Far Open Centre where three times a week residents have to sign a register; they queue in front of a particular office and go into the office one at a time. On the day in question the residents at the Open Centre were obliged to sign the register; in fact the incident took place during this signing procedure.

That, according to the witnesses brought forward by the prosecution, on the day in question the residents of the Open Centre were queuing and signing as usual; the procedure was being supervised by Michael Quinn, coordinator of the Open Centre who was standing by the door leading to the office where the signing takes place. After the first few persons had gone into the office to sign defendant came rushing towards the office and expected to be allowed into the office claiming that he was first in the queue. Michael Quinn tried to stop defendant who however would not be persuaded. At this point in time Mario Gauci (assistant coordinator at the Open Centre) was in his office but hearing the commotion came out to see what was happening. Quinn explained what was happening; together, Quinn and Gauci led the defendant to the end of the queue. Soon after defendant again rushed towards the door expecting to be allowed into the office and at this point Mario Gauci blocked the entrance to the office (the door was open) by standing in the doorway. Defendant tried to push Gauci away, hitting him and pushing him. With Quinn's help defendant was again led to the end of the queue and eventually he calmed

down; the police were informed of this incident and went on site. As a result of this incident Mario Gauci suffered slight injuries.

That defendant's version of facts differs in relation to some of the facts. He claims that he was queuing and that he was first in the queue, that he forgot his police card so he left the queue to get this card from his tent. When he went back and on approaching the queue he realised that the residents were already being allowed in the office to sign so he expected to be allowed into the office immediately on returning to the office. Defendant claims that he was asked by Mario to go to the end of the queue, which he did. Defendant also claims that at a certain point Mario told him that he will not be allowed to sign, so he begged to be allowed to sign but Mario attempted to drag him away, pulling him by his trousers. Defendant reacted by pulling Mario's hand away. Eventually the police came and took defendant away. Defendant produced a witness -- John Owie -- who corroborated all the facts stated by defendant.

That it is worth noting that defendant and John Owie failed to mention Michael Quinn at all, and in particular failed to mention that it was Michael Quinn who first asked defendant to go to the end of the queue and that the incident first arose when Michael Quinn asked defendant to go to the end of the queue. Neither do defendant and his witness mention the fact that Mario Gauci was in his office and came out on hearing the commotion.

That in spite of the conflict in the testimony given by Michael Quinn and Mario Gauci on one hand and that given by defendant and John Owie on the other hand, the Court is satisfied that it can accept the version of facts as stated by Quinn and Gauci as the correct version.

That consequently the Court is satisfied that the charges brought against defendant have been sufficiently proven.

That with regards to the penalty to be meted out the Court considered the circumstances of the case, the fact that

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the injuries suffered by Mario Gauci were of a slight nature, and the fact that defendant has a clean conviction sheet.

For these reasons, the Court, after having seen sections 95, 96, 221 338(bb) and 338(dd) of Chapter 9 of the Laws of Malta, finds defendant guilty of the charges brought against him and condemns him to four months imprisonment which by application of section 28A of Chapter 9 of the Laws of Malta are being suspended for one year.

The Court explained to the defendant in ordinary language his liability under section 28B of the same Chapter 9 if he commits an other offence during the operational period of one year.

< Sentenza Finali >

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