



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

**MAGISTRATE DR.
MIRIAM HAYMAN**

Sitting of the 3rd December, 2008

Number 740/2008

**THE POLICE
INSPECTOR VICTOR AQUILINA**

VERSUS

**MOHAMED ABDALA HAYBE, aged 43 years, son of
Mohamed and Fatima, born in Mogadishu(Somalia) on
the 3rd April, 1965, residing at number 27, North Croft
Court, Becklow Road, London, bearing passport
number 303023583 issued from the United Kingdom
on the 3rd October, 2003 and expiring on the 3rd
October, 2013;**

The Court;

Having seen charges brought against **MOHAMED
ABDALA HAYBE**, who was charged with having in these
Islands, on the night between the 9th and 10th August,
2008:

- a) Imported or offered to import psychotropic and restricted drug (cathinone) without a special authorization in writing by the Superintendent of Public Health, in breach of the provisions of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta and the Drug(Control) Regulations, Legal Notice 22 of 1985 as amended;
- b) Also of having imported or offered to import psychotropic and specified drug (cathine) without having proper authorization, in breach of the provisions of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta and the Drug (Control) Regulations, Legal Notice 22 of 1985 as amended;
- c) Also of having been in possession of psychotropic and restricted drug (cathinone) without a special authorization in writing by the Superintendent of Public Health, in breach of the provisions of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta and the Drug (Control) Regulations, Legal Notice 22 of 1985 as amended, under such circumstances that such possession was not intended for his personal use;
- d) Also of having been in possession of psychotropic and specified drug (cathine) without having proper authorisation, in breach of the provisions of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta and the Drug (Control) Regulations, Legal Notice 22 of 1985 as amended, under such circumstances that such possession was not intended for his personal use.

Seen that initially accused pleaded not guilty to the charges proffered;

Seen the Attorney General's order that this case be tried by the Criminal Court (folio 11, DOK VA1);

Seen that at a later stage Attorney General reviewed his position and sent the counter order (under Chapter 31 of

the Laws of Malta), in order that this case be tried by this Court in its present competence

Seen all the records of the case and heard the necessary submissions;

Seen also that in the last sitting accused registered an admission to the charges proffered albeit stating that such has been done to expedite matters as technically there are legal points regarding Chapter 31, but as defendant has already been practically four months under preventive arrest, he thus opted to confirm an admission of guilt.

Seen that the accused has again decided to confirm his guilt plea after the Court explained to him the consequences thereof.

Albeit Defense's submission about the fact that Khat(the original leaf found), is not scheduled under Chapter 31 of the Laws of Malta, the Court also makes reference to Mario Mifsud's conclusion as a Court expert on drug analysis:

'(a) The chemical 1,2-Propandion, 1-phenyl was found in the extracts of the plants that are in exhibit 260_08_01. This chemical is a derivative of Cathinone and as a consequence it is controlled under the Third Schedule Part A of Chapter 31 of the Laws of Malta.'

In fact due to the admission reiterated by the accused, the Court is not divulging any further in these legal arguments, except to say that truly the Khat plant is not scheduled and that no minimum is established by our Law (Chapter 31) that makes the presence of Cathinone legal.

All being said, the Court, considering the minimality of the derivative of Cathinone found sentences accused to six(6) months effective imprisonment and to a fine of €466(four hundred sixty-six Euros), after having seen Section 120A(2)(b)(ii) of Chapter 31 of the Laws of Malta.

Seen also Section 533 of Chapter 9 of the Laws of Malta, and condemns him to pay the sum of €333.33(three

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hundred thirty-three Euros, thirty-three Euro cents), being experts fees incurred in this case.

< Final Judgement >

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