



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

**MAGISTRATE DR.
GABRIELLA VELLA**

Sitting of the 24 th December, 2009

Number 1330/2009

Police
(Inspector Elton Taliana)

Vs.

Favour Oberaifo

The Court,

Having seen charges brought against Favour Oberaifo, sixteen (16) years of age, son of Fidelis, born in Nigeria on the 19th December 1993 and residing at No.9, St. Paul Flats, Ruggero Loria Street, St. Paul's Bay, holder of Identity Card Number 52678(A), that on the 22nd December 2009 at about 20.15hrs in Ruggero Loria Street, St. Paul's Bay, he: (a) assaulted or resisted by violence or active force not amounting to public violence, any person lawfully charged with a public duty when in execution of the law or of a lawful order issued by a competent authority; (b) disobeyed the lawful orders of

any authority or of any person entrusted with a public service, or hindered or obstructed such person in the exercise of his duties, or otherwise unduly interfered with the exercise of such duties; (c) in any manner wilfully disturbed the public good order or the public peace; (d) refused to give, or untruthfully gave to any public officer or any other person entrusted with a public service in the actual exercise of his duties, his name, surname, address and other particulars; (e) ran violently in any street or open space, with the risk of running into and injuring other persons;

Having heard the evidence and examined all documents forming part of the proceedings;

Having heard the accused plead guilty to all the charges brought against him, notwithstanding the fact that the Court, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, warned him in the most solemn manner of the legal consequences of his guilty plea after having given him sufficient time within which to reconsider and withdraw his guilty plea;

Having heard the admission of the accused to all the charges brought against him, the Court has no alternative but to find him guilty of all the said charges;

After having seen and considered Section 96, Section 338(ee), Section 338(dd), Section 338(g) and Section 338(cc) of Chapter 9 of the Laws of Malta finds the accused guilty of all charges brought against him.

With regards to the punishment the Court heard submissions by the Prosecuting Officer and Defense Counsel and whilst acknowledging the seriousness of the offences committed by the accused, it took into consideration the fact that the accused has a clean criminal record, that this is his first offence and in spite of the charges brought against him nobody seems to have been injured in the incident forming the merits of this case, that he apologized to the Police for his actions and

that he submitted a guilty plea at an early stage of the proceedings.

The Court further took into account the fact that the accused has already spent a year confined in a detention centre and in the circumstances it does not deem imprisonment to be a fit punishment for the offences committed by him.

Therefore the Court, whilst having seen and considered the above-mentioned Section 96, Section 338(ee), Section 338(dd), Section 338(g) and Section 338(cc) of Chapter 9 of the Laws of Malta, and having also seen and considered Section 17 and Section 18 of Chapter 9 of the Laws of Malta, condemns the accused to seven (7) months imprisonment and after having considered Section 28A of Chapter 9 of the Laws of Malta suspends said term of imprisonment for a period of four (4) years from today.

In terms of Section 28A(4) of Chapter 9 of the Laws of Malta the Court has explained to the accused in plain language his liability under Section 28B of Chapter 9 of the Laws of Malta if during the operational period he commits an offence punishable with imprisonment.

The Court after having seen Section 392A of Chapter 9 of the Laws of Malta orders that the acts of these proceedings together with a copy of this judgement be transmitted to the Attorney General within the period of time stipulated by law.

< Final Judgement >

-----END-----