



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

**MAGISTRATE DR.
AUDREY DEMICOLI**

Sitting of the 25 th June, 2010

Number. 196/2004

**Police
(Inspector Nadia Lanzon)**

vs

Glenn Andrew Gorman

The Court,

Having seen that the accused, Glenn Andrew Gorman, aged 31, son of John and Carmen nee Chetcuti, born in London England on the 16th of December 1971, and residing at 3 Melita Flats, Swieqi Road, Swieqi, holder of British passport number 070853104 was arraigned before her and charges with having:

On the 22nd of June 2003 in the early hours of the morning between 4.00a.m. and 4.30a.m. at the Marsaxlokk Water Polo Club, committed theft of various items from inside

said premises, which total value does not exceed LM 1000 to the detriment of the owners of said outlet, which crime is aggravated by means, amount, place and time as per Sections 261 (b) (c) (e) and (f), Article 263(a), Article 267, Article 269 (c), Article 270 and Article 278 (3), Article 281 (c);

He is being accused that on the same time, date, location and circumstances, with intent to commit a crime, manifested such intent by overt acts of commencement of the execution of the crime (theft) which was not completed in consequence of some accidental cause independent of the will of the offender, which theft is aggravated by means, time and value and thereby infringing articles 261 (b) and (c), 264(1), and 267 of Chapter 9 of the Criminal Code of Malta;

Moreover he is accused of having willfully committed any spoil, damage or injury to or upon any moveable or immovable property belonging to other persons, i.e. to the detriment of the owners of the outlet which amount of the damage does not exceed five hundred Maltese Liri but exceeds fifty Maltese liri as per Art. 325 (b) of Chapter 9 of the Criminal Code of Malta;

Having seen all the acts of the proceedings including the Attorney General's consent dated 10th of March, 2004 (exhibited at folio 7 of the proceedings) for this case to be treated summarily.

Having heard that the accused declare that he has no objection that this case is heard summarily.

Having heard all the evidence brought forward by the Prosecution and the Defence in this case.

Having heard the final submissions made by the Prosecution and the Defence.

The facts of this case are in brief as follows. On the 22nd June 2003 the Police received a report from the proprietor of the Marsaxlokk Waterpolo Club Bar, a certain Maris

Baldacchino, that in the early hours of the morning a theft had been affected from the said premises whereby an amount of money had been stolen. Maris Baldacchino gave evidence during these proceedings (relative evidence inserted in pages 53 to 55 of these acts) whereby she explained that on the said date she and her boyfriend Martin Callus had closed the bar at around 4.00am and they had then driven to Paceville to buy some takeaway food and returned back to the bar at around 4.30am. Ms Baldacchino stated that Martin Callus got out of the car and went to open the padlock of the gate. She was still alighting from the car when she heard him shout and then saw him running after a man who had run out from behind the bar and they were both running towards the sea. Ms Baldacchino also said that the man was wearing dark clothing and he had a haversack on his back and she indicated that while he was running he lost his balance and fell into the sea and subsequently managed to escape. According to this witness Martin Callus managed to retrieve the haversack with the stolen money in it from the bottom of the sea. She also said that they found a crowbar on the premises and also said that she had only managed to get a sideways glimpse of the thief and could therefore not identify him. She also said that the premises were not well lit but there were two light bulbs switched on in the bar. Maris Baldacchino also stated that her boyfriend Martin Callus told her and the Police that he thought that the man he had run after was a former inmate of Corradino Correctional Facility, a certain Glenn Gorman. Ms Baldacchino said that at the time Martin Callus worked as a warden at the Corradino Correctional Facility.

In the statement made to the Police (exhibited at pages 16 and 17 of these proceedings) the accused denied his involvement in the theft and stated that on the date and time indicated to him by the Police he was asleep at his mother's flat. He also specified that he was bound by bail conditions relating to a pending case which conditions specified that he could only leave his residence between 7.00am and 9.00am. The accused repeated the same version when he gave evidence on the 19th January 2010.

Martin Callus never gave evidence during these proceedings. He only gave evidence before the expert appointed by the Inquiring Magistrate who conducted the Magisterial Inquiry (Process Verbal exhibited at page 43 of these proceedings) whereby he mentioned that he thought that the man he ran after on the date in question was an ex inmate whom he had seen at Corradino Correctional Facility, a certain Glenn Gorman. Martin Callus however never identified the accused in person as being the man he had seen on the night in question running away from the bar. The Court therefore deems that the Prosecution failed to prove beyond reasonable doubt that it was the accused who had committed the theft in question since the main witness of the Prosecution never identified him in person. It is to be noted that Martin Callus referred to the person he had seen on that day as being Glenn Gorman whilst the accused's name is Glenn Andrew Gorman. It is also to be noted that Maris Baldacchino stated that the premises were not well lit and that Martin Callus only caught a glimpse of the thief's face for a few seconds.

The Court therefore deems that the Prosecution failed to prove its case beyond reasonable doubt.

For these reasons the accused is being declared not guilty of all the charges brought against him and he is consequently being acquitted from the said charges.

< Final Judgement >

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