



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

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

Sitting of the 30 th September, 2009

Number. 793/2009

The Police
(Inspector Daniel Zammit)

vs

Mark Anthony George Bennett

THE COURT

Having seen the judgment delivered by this Court in the 10th of August 2009 (page 59 et of the acts) by means of which the accused was found guilty of all the charges brought against him after the same accused pleaded guilty as charged even after he was given time to reconsider this plea.

Having seen the Order given in accordance with Chapter 446 of the Laws of Malta for a Pre-sentencing and Social Inquiry Report to be presented in regard to the accused together with the necessary recommendations.

Having seen the report submitted by Probation Officer, John Testa during the sitting held on the 2nd of November 2009.

Having heard the submissions made by defence council as well as the evidence given by the same Probation Officer in cross-examination.

Having Considered

That, as can be seen from the charges, the accused has been found guilty of all the charges consisting of a number of thefts all of the aggravated by means and some aggravated also by amount. Moreover all this above were committed whilst the accused was benefiting from two Probation Orders and in breach of the conditions of these Orders. In view of this and according to article 28A (7) of the Criminal Code, this Court is precluded from imposing a suspended prison sentence on the accused.

That as can be seen from the above report, it has been brought to the notice of this Court that the same accused “....has always shown lack of motivation and cooperation with those involved” and a prison sentence is to be considered “....as the best means to deal with Mark Bennett”.

That it is true that the accused is only eighteen (18) years of age and as explained during these proceedings, he is undergoing grave personal and family problems. However the above cannot be ignored. Moreover it is to be pointed out that in regard to all the items stolen only those involved in the last two charges were recovered whilst all the other items were sold by the accused to third parties.

That, therefore, the Court has no choice but to, reluctantly, impose a prison sentence in accordance with the law, as resulting from the articles cited in the Judgment already delivered (v. pg. 62 of the acts).

Therefore the Court, having considered all that is stated above condemns the accused to one (1) year imprisonment.

The Court orders that all the period spent under preventive custody be deducted from the prison term imposed on the accused.

Moreover in regard to the charge of having breached two “probation orders” and relative to two judgments dated the 14th of April 2008 and 4th of June 2009, the Court saw from the attached conduct sheet that the accused has already been found guilty in regard to the judgment dated the 14th of April 2008. In view of the principle of “ne bis in idem” the Court is not imposing any punishment in this regard but is imposing it only in regard to the judgment delivered on the 4th of June 2009.

Therefore the Court condemns the accused to a further imprisonment of one (1) year.

< Final Judgement >

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