



CRIMINAL COURT

**THE HON. MR. JUSTICE
MICHAEL MALLIA**

Sitting of the 27 th November, 2012

Number 3/2012

THE REPUBLIC OF MALTA

Versus

Janis Boruss

The Court,

Having seen the bill of indictment no. 3-2012 against the accused Janis Boruss wherein he was charged with:

1) After the Attorney General premised in the First and Only Count of the Bill of Indictment that on the fourteenth (14) December of the year two thousand and ten (2010), Drug Squad police were informed by customs officials at the Malta International Airport that the accused had arrived in Malta on flight FR3883 from Luton, and he was detained on arrival on suspicion that he may be carrying an illicit substance. When the luggage of the accused was searched, a false bottom was discovered wherein

three packets wrapped in tape were found and these were suspected of containing an illegal drug in accordance with our law.

That it transpired from the investigations that on the fourteenth (14) December of the year two thousand and ten (2010) and in the preceding months, the accused Janis Boruss, decided to start trafficking illegally in cocaine. The accused had knowingly conspired with other persons to carry the illicit drug cocaine, by carrying same in a false bottom created in his luggage and which packets the accused had knowingly agreed to pass on to another individual upon his arrival in Malta, in order for the drugs to be trafficked locally. The accused would receive a considerable amount of money for such service rendered, amounting to hundreds of Euros. Fortunately the accused was arrested by the police on the date of his arrival that is on the fourteenth (14) December of the year two thousand and ten (2010) in the abovementioned circumstances. He also voluntarily released a statement to the police in accordance with law where he admitted to his involvement and to his awareness about the fact that he was carrying an illicit drug, most likely cocaine, which drug he knew was not legitimate in the Maltese islands. Following the necessary analysis carried out by forensic experts, it resulted that the packets carried consisted paracetamol and caffeine substances which both constitute cutting agents for cocaine, in the aggregate amount of two thousand eight hundred and sixty six grams (2866grms).

By committing the abovementioned acts with criminal intent, Janis Boruss rendered himself guilty of conspiracy to trafficking in dangerous drugs in breach of the provisions of the Dangerous Drugs Ordinance.

Wherefore, the Attorney General, in his capacity, accused Janis Boruss of having on the fourteenth (14) December of the year two thousand and ten (2010) and in the preceding months, guilty of conspiracy to trafficking in dangerous drugs in breach of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of

Malta) or of promoting, constituting, organising or financing the conspiracy; demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 9, 10(1), 12, 14, 15(A), 20, 22(1)(a)(f)(1A) (1B)(2)(a)(i)(3A)(a)(b)(c)(d) and 26 of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal Control of Dangerous Drugs (Legal Notice 292/39), and in sections 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen all the records of the case, including those of the compilation of evidence before the Court of Magistrates (Malta) as a Court of Criminal Inquiry;

Having seen the jury's verdict of today's date whereby by eight (8) votes in favour and by one (1) vote against, they found the accused guilty of the First and Only Count of the bill of indictment.

Now therefore declares Janis Boruss namely of having on the 14th December 2010, and in the preceding months, guilty of conspiracy to trafficking in dangerous drugs in breach of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or of promoting, constituting, organising or financing the conspiracy, and this according to the First and Only Court of the Bill of Indictment.

Having seen that accused has a clean criminal record.

Having considered the gravity of the case.

Having seen articles 9, 10(1), 12, 14, 15(A), 20, 22(1)(a)(f)(1A) (1B)(2)(a)(i)(3A)(a)(b)(c)(d) and 26 of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal Control of Dangerous Drugs (Legal Notice 292/39), and in sections 23 and 533 of the Criminal Code.

Now therefore condemns the said Janis Boruss to a term of imprisonment of twelve (12) years, and to the payment of a fine (multa) of thirty thousand Euros (€30,000), which fine (multa) shall be converted into a further term of imprisonment according to Law, in default of payment ;

Furthermore condemns him to pay the sum of two thousand seven hundred and twenty seven Euros and seventy two Euro cents (€2727.72) being the sum total of the expenses incurred in the appointment of court experts in this case in terms of Section 533 of Chapter 9 of the Laws of Malta, within fifteen (15) days from today ;

Furthermore, orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which he has been found guilty and other moveable and immovable property belonging to the said Janis Boruss.

And finally orders the destruction of all the objects exhibited in Court, consisting of the blocks of paracetamol and caffeine related to this case, which destruction shall be carried out by the Assistant Registrar, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

< Final Judgement >

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