



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

**MAGISTRATE DR.
MIRIAM HAYMAN**

Sitting of the 2 nd December, 2011

Number. 592/2010

**THE POLICE
INSPECTOR JESMOND J BORG
INSPECTOR VICTOR AQUILINA**

VS

MARK ANDREW BUCKLEY aged 27 years, son of Anthony and Julie nee' Denton, born in Manchester, UK on the 25th August, 1984, residing in Malta Qawra Inn Hotel, Room 464 and holder of british passport number 108015999 and identity card number 54913A;

The Court;

Seen charges proffered against the above-mentioned **Mark Andrew Buckley** who was charged of having:

a. On the 9th June, 2010 and during the previous days, on these Islands, together with another one or more persons in Malta or outside Malta, conspired, promoted, constituted, organised or financed the conspiracy with other person/s to import, sell, or deal in the drug (cocaine) in these Islands, against the Provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, or promoted, constituted, organised or financed the conspiracy;

b. Also of having imported, or caused to be imported, or took any steps preparatory to import any dangerous drug (cocaine) into Malta in breach of Section 15A of Chapter 101 of the Laws of Malta;

c. Also of having supplied or distributed or offered to supply or distribute the drug (cocaine), specified in the First Schedule of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, to person/s or for the use of other person/s, without being licensed by the President of Malta, without being fully authorised by the Internal Control of the Dangerous Drugs Regulations (GN 292/1939), or by the authority given by the President of Malta, to supply this drug, and without being in possession of an import and export authorisation issued by the Chief Government Medical Officer in pursuance of the Provisions of Paragraph 6 of the Ordinance and when he was not duly licensed or otherwise authorised to manufacture or supply the mentioned drug, when he was not duly licensed to distribute the mentioned drug, in pursuance of the Provisions of Regulation 4 of the Internal Control of Dangerous Drugs Regulations (GN 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta;

d. Also of having had in his possession the drugs (cocaine) specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, when he was not in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the Provisions of Paragraphs 4 and 6 of the Ordinance, and when he was not licensed or

otherwise authorised to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorised by the Internal Control of Dangerous Drugs Regulations (GN 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations, and this in breach of the 1939 Regulations, of the Internal Control of Dangerous Drugs (GN 292/1939) as subsequently amended by the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for this personal use.

Seen that these proceedings due to the fact that accused was English speaking, were conducted in the English language.

Seen that at the stage of the examination, accused answered that he was not guilty as charged.

Seen the Counter Order issued by Attorney General under Chapter 101 of the Laws of Malta dated 14th November, 2011.

Seen that once the Counter Order was issued, a plea of admission was entered. The Court confirmed such plea after having addressed accused as to his understanding of the plea registered. This established, the Court then heard submissions with regards to the adequate and just punishment to be handed down to the accused.

Considered:

That the two major witnesses brought against the accused were a certain Daniel Emile Degisi and Jamie Thomas Carter. Degisi started his deposition by telling the Court that he was holding drugs, cocaine, that belonged to a certain Mark and Rebecca. He also said that it was his friend Jamie that had introduced him to the accused. He also confirmed that he was to be given a thousand Euros

from accused to keep possession of the drugs in question, this by the accused. The intention was that the drugs be kept in safe keeping. He kept these drugs in the hotel room at the Premiere Hotel. He also confirmed that eventually all the group, five of them, helped themselves to some of this cocaine. Degisi also had, prior to giving evidence viva voce, confirmed under oath the events in front of an Inquiry Magistrate. Here he confirmed that Mark had told them, once in Malta, that he was making a lot of money here (Malta). He also evidenced that Mark had bought a bag of drugs and told the witness he was to enter into a deal regarding drugs. Degisi was so put in charge of this illicit substance. He reiterated that it was for this purpose that he was to be given a thousand Sterling. Apart from the promised money, Mark also promised to pay for his food, beer, drugs, and girls.

So Mark, at a certain stage repossessed the drugs, but later on gave them back to witness for safe deposit as the drug deal had not taken place. Later he reiterated that Mark allowed them all to help themselves from this cocaine.

From his part, Jamie Thomas Carter, confirmed that the accused was phoning him asking him to bring drugs into Malta. He confirmed he had known Mark for four years before. The drug Mark requested was cocaine. Since the witness refused to carry these drugs he spoke to the previous witness, that is Degisi, who was to do the job for Mark. On accused's insistence, he accompanied Degisi to Malta. Mark Andrew Buckley was to pay for his plane ticket and the four-day stay in Malta. Carter testified that it was a certain Bizike who in fact carried the drugs to Malta. The stuff (drugs) was therefore brought to Malta for the accused. He also confirmed that the police were after Mark and that it was here that Mark pulled out the drugs and allowed all the group to share in the cocaine. This witness also confirmed his evidence on oath before an Inquiry Magistrate and confirmed all above premised, saliently that the drugs were brought into Malta on the accused requests and instigation.

Considered:

That the above synopses of the evidence of the two main witnesses was drawn so that the accused's involvement in this deal be more appreciated. Be it premised that both Carter and Degisi gave evidence, although duly cautioned, fully conscious of the fact that they could prejudice their own separate case, which then had not as yet been 'res judicate'.

Certainly Mr Buckley's involvement in this case, as seen as a whole drug operation, is a more active one than that of the two witnesses. He in fact was the instigator and demanded that the drugs be brought over to Malta, he was organising the drug deal, he was the one who willingly shared the cocaine with the others. His involvement and responsibilities are such that he certainly deserves a higher degree of punishment already afforded to the others involved in this case; others who Buckley elected to use as moles or to keep simple possession, safe custody of the drugs in question.

Therefore, finds Mark Andrew Buckley guilty as charged, after having seen Articles 22A, 22(2)(b) of Chapter 101 of the Laws of Malta;

GN 292.1939, u LS 101.02 (Reg 9).

Considers the conviction sheet of the accused.

Heard submissions of parties with regards to the penalty to be inflicted, considered the above premised with regards to the accused's involvement and instigation to have the drugs imported in Malta, therefore involving other persons in the crime;

Therefore the Court condemns accused to the punishment of effective imprisonment for the period of five (5) years and to the fine of €5,000;

Seen also Section 533 of Chapter 9 of the Laws of Malta, and condemns accused to pay the experts fees to the amount of €993.45.

Informal Copy of Judgement

Orders the destruction of drugs exhibited bearing reference number KB510.2010.

< Final Judgement >

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