



## COURT OF CRIMINAL APPEAL

### JUDGE

**The Hon. Dr. Antonio Mizzi LL.D., Mag. Juris (Eu Law)**

Appeal no. 608/2016

The Police  
(Inspector Godwin Scerri)  
Vs

Curguz Dragan

Son of Mile, born in Serbia on the 24<sup>th</sup> July, 1984, holder of Serbian Passport number 11242045.

This, fifteenth (15) day of December , 2017

The Court,

Having seen the charges brought against the appellant **Curguz Dragan** before the Court of Magistrates (Malta) :

1. On the 19th of October, 2016, at around 13:15hrs in St Paul's Bay with the intent to commit the crime of theft from vehicle make Toyota bearing registration number GBR-629, manifested such intent and were such crime was not completed in consequence of an accidental cause independent of his will, in breach of Articles 41(1)(a) & 271(g) of Chapter 9 of the Laws of Malta.
2. Of having on the same date, time and circumstances mentioned above, willfully committed voluntary spoil, damage or injury to or upon any movable or immovable

object, that exceeds €250, but does not exceed the amount of €2500 to the detriment of Daryl Borg Cardona in breach of Article 325 (1)(b) of Chapter 9 of the Laws of Malta.

3. Of having on the 26th of September, 2016 at around 02:15hrs from the Barracuda Restaurant situated at Steps Street in St Paul's Bay committed the theft of bottled alcoholic beverages, to the detriment of Dylan Farrugia, in breach of Article 270 of Chapter 9 of the Laws of Malta.

4. Of having during the night between the 17th & 18th of October, 2016, from the Soul Kitchen Restaurant situated in Mosta Road in St Paul's Bay, committed the theft of bottled alcoholic beverages, to the detriment of Dylan Farrugia, Justin Micallef & Simone Farrugia in breach of Articles 263(a), 267 & 270 of Chapter 9 of the Laws of Malta.

5. Of having during the night between the 17th & 18th of October, 2016, whilst at the Soul Kitchen Restaurant willfully committed voluntary spoil, damage or injury to or upon any movable or immovable object, that exceeds €250, but does not exceed the amount of €2500 to the detriment of Dylan Farrugia, Justin Micallef & Simone Farrugia in breach of Article 325 (1)(b) of Chapter 9 of the Laws of Malta.

6. Of having on the 5th of September, 2016 at St Paul's Street in St Paul's Bay committed theft of cash, electronic equipment and clothing from vehicle make Smart bearing registration number LCU- 684 to the detriment of Jonathan Paul Grima, in breach of Article 267, 271(g) of Chapter 9 of the Laws of Malta.

7. Of having on the 5th of September, 2016 at St Paul's Street in St Paul's Bay, willfully committed voluntary spoil, damage or injury to or upon any movable or immovable object, of damage that does not exceed €250, to the detriment of Jonathan Paul Grima in breach of Article 325(1)(c) of Chapter 9 of the Laws of Malta.

8. Of having on the 17th of October, 2016 at around 21:15hrs at Church Street in St Paul's Bay committed theft of cash, personal bank documents (HSBC) and clothing from vehicle make Isuzu bearing registration number CBA-953 to the detriment of Joevin Ellul, in breach of Article 270, 271(g) of Chapter 9 of the Laws of Malta.

9. Of having on the 17th of October, 2016 at around 21:15hrs at Church Street in St Paul's Bay, willfully committed voluntary spoil, damage or injury to or upon any movable or immovable object, that does not exceed €250, to the detriment of Joevin Ellul in breach of Article 325(1)(c) of Chapter 9 of the Laws of Malta.

Having seen the judgement delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 5<sup>th</sup> December, 2016, by which, the Court, after having seen Articles 17(b), 41(1)(a), 263(a), 267, 270, 271(g), 278(3), 280(1), 279(a), 281(a), 325(1)(b)(c) of Chapter 9 of the Laws Of Malta, the Court found accused Dragan Curguz guilty of all the charges brought against him and condemned him twenty eight (28) months imprisonment in which period he is to be given adequate treatment for his drug problem and consequently to be admitted into one of the programs available on the Island for drug problems.

Having seen the application of defendant Curguz Dragan filed on the 19<sup>th</sup> December, 2016, wherein he humbly prayed this Court to vary the judgement of the Court of Magistrates (Malta) As a Court of Criminal Judicature, given on the 5<sup>th</sup> of December 2016, and this by confirming that part of the judgment where the Court of First instance found the appellant guilty of the charges brought against him , and varies that part in which the appellant was condemned to 28 months imprisonment, and imposes a punishment which is more fit and appropriate in the circumstances.

That the grounds of appeal of defendant Curguz Dragan consist of the following:

That the appellant has realized his mistake and wanted to sort his life.

That, in fact, as also stated in the judgement in question, the appellant did not ask for bail as he wanted to recover as soon as possible from his addiction.

That the appellant was continuously asking to be given treatment to cure his addiction, which treatment he was being given, and still is till today.

That the appellant has never had any problems with the law and he realized that what happened was a mistake. In fact, the appellant wants to be totally clean of any addiction before he returns to his family back in his country.

That the appellant humbly believes that the penalty imposed is exaggerated, especially in view of the fact that he registered an early guilty plea.

Having seen the records of the case.

Having seen the updated conviction sheets of the defendants.

Now therefore duly considers,

The appellant's application refers only to the punishment inflicted by the Court of Magistrates. He believes that this punishment ought to be more lenient as he registered an early plea admitting to the charges as proffered and to the fact that he has a clean conduct sheet.

This Court has given some thought to the request of the appellant and is of the opinion that a reduction would be in order and benefit the appellant in his fight to overcome his drug habit.

Consequently, this Court confirms the judgement of the first Court with regards to the merits of the case. As regards the punishment which has been meted out, this Court upholds the appellant's request. It revokes the judgement of the first Court and condemns Dragan Curguz to a term of imprisonment of twenty-four (24) months.

