



**MALTA**

**COURT OF MAGISTRATES (MALTA)  
AS A COURT OF CRIMINAL JUDICATURE  
MAGISTRATE  
DR. GABRIELLA VELLA B.A., LL.D.**

**The Police  
(Inspector Godwin Scerri)**

**Vs**

**Simon Anthony Robert Tartaglia**

**Today 22<sup>nd</sup> November 2018**

**The Court,**

After having considered the charges brought against Simon Anthony Robert Tartaglia, son of John Gordon and Susan Vanessa neè Tarr, born on the 24<sup>th</sup> May 1983 in Cheltenham, United Kingdom, residing at Flat 1, Ohio Apartments, Qawra Road, St. Paul's Bay, holder of British Passport bearing number 513593142, of having on the 9<sup>th</sup> September 2017, at around 02:45hrs, in St. Paul's Bay:

1. Without the intent to kill or to put the life of Stefan Sulak in manifest jeopardy, with the use of a proper arm or arms improper, caused harm to the body or the health of the said Stefan Sulak, which harm is of a grievous nature as certified by Dr. Peter Agius M.D., in breach of Sections 217 and 218 of Chapter 9 of the Laws of Malta;
2. On the same date, place and time carried outside any premises or appurtenance thereof, a knife or cutting or pointed instrument of any description without a licence or permit from the Commissioner of Police in breach of Section 6 of Chapter 480 of the Laws of Malta;
3. On the same date, place, time and circumstances breached the conditions of bail decreed on the 21<sup>st</sup> June 2016, by the Court of Magistrates presided by Dr. Charmaine Galea LL.D., in breach of Section 579(1),(2) and (3) of Chapter 9 of the Laws of Malta;
4. On the same date, time and place, without inflicting any wound or blow, threatened with stones or other hard substances, or threw or took up any other weapon against Jan Hejl, Stepan Mosler, Patrick Soukip and Jakub Stejskal in breach of Section 339(b) of Chapter 9 of the Laws of Malta; and
5. On the same date, time and place, disturbed the repose of the inhabitants by rowdiness or bawling or in any other manner, in breach of Section 338(m) of Chapter 9 of the Laws of Malta;

After having heard the accused plead not guilty to the charges brought against him;

After having considered the document exhibited by the Prosecuting Officer during the sitting held on the 11<sup>th</sup> September 2017, which document is marked as Doc. “A” and is found at folio 8 of the records of the proceedings;

After having heard testimony by Stepan Mosler<sup>1</sup> and Jackup Stejskal<sup>2</sup> during the sitting held on the 11<sup>th</sup> September 2017 and after having heard the Prosecuting Officer declare that he renounces to the testimony by Patrick Soukip since he could not give testimony in English, after having heard testimony by Stefan Sulak during the sitting held on the 25<sup>th</sup> September 2017<sup>3</sup> and Jan Hejl<sup>4</sup>, PC788 Keith Scerri<sup>5</sup> and PS1462 Joseph Attard<sup>6</sup> during the sitting held on the 19<sup>th</sup> October 2017 and after having seen the documents submitted by PS1462 Joseph Attard marked as Doc. “JA1” and Doc. “JA2” at folio 60 to 64 of the records of the proceedings, after having heard testimony by Inspector Godwin Scerri during the sittings held on the 26<sup>th</sup> October 2017<sup>7</sup>, 18<sup>th</sup> December 2017<sup>8</sup> and 6<sup>th</sup> March 2018<sup>9</sup> and after having considered the documents submitted by him marked Doc. “GS1” to Doc. “GS3” at folio 84 to 88 of the records of the proceedings, the document marked Doc. “GV” at folio 121 of the records of the proceedings and the document marked Doc. “X” at folio 131 to 153 of the records of the proceedings, after having heard testimony by PS1300 Julian Fenech during the sitting held on the 26<sup>th</sup> October 2017<sup>10</sup> and testimony by WRPC Ismaine Fenech<sup>11</sup> and Dr. Pierre Agius<sup>12</sup> during the sitting held on the 30<sup>th</sup> November 2017 and after having considered the document submitted by WRPC Ismaine Fenech marked as Doc. “IF” at folio 111 of the records of the proceedings, after having heard testimony by Dr. Michael Spiteri during the sitting held on the 11<sup>th</sup> December 2017<sup>13</sup>;

After having considered the Report of the Court appointed Psychiatrist Dr. Joseph Vella Baldacchino at folio 42 to 49 of the proceedings and after having heard testimony by Dr. Joseph Vella Baldacchino during the sitting held on the 5<sup>th</sup> October 2017<sup>14</sup>;

After having seen that the accused was granted bail against a number of conditions by means of a Decree dated 5<sup>th</sup> October 2017, which bail was however revoked by the Criminal Court upon a request by the accused himself by a Decree dated 21<sup>st</sup> November 2017<sup>15</sup>

After having seen that a Protection Order has been issued against the accused in favour of Jan Hejl on the 5<sup>th</sup> October 2017<sup>16</sup>;

After having seen and considered the Note by the Attorney General dated 11<sup>th</sup> April 2018<sup>17</sup> by means of which he declared that from the preliminary investigation against the accused there might result an offence or offences under the provisions of Sections 214, 215, 216, 217 of Chapter 9 of the Laws of Malta, Section 579 of Chapter 9 of the Laws of Malta, Section

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<sup>1</sup> Folio 11 to 19 of the records of the proceedings.

<sup>2</sup> Folio 20 to 23 of the records of the proceedings.

<sup>3</sup> Folio to 39 of the records of the proceedings.

<sup>4</sup> Folio 65 to 74 of the records of the proceedings.

<sup>5</sup> Folio 75 and 76 of the records of the proceedings.

<sup>6</sup> Folio 77 to 82 of the records of the proceedings.

<sup>7</sup> Folio 89 to 94 of the records of the proceedings.

<sup>8</sup> Folio 122 of the records of the proceedings.

<sup>9</sup> Folio 154 of the records of the proceedings.

<sup>10</sup> Folio 95 to 99 of the records of the proceedings.

<sup>11</sup> Folio 112 and 113 of the records of the proceedings.

<sup>12</sup> Folio 114 and 115 of the records of the proceedings.

<sup>13</sup> Folio 117 to 119 of the records of the proceedings.

<sup>14</sup> Folio 54 to 58 of the records of the proceedings.

<sup>15</sup> Folio 100 to 108 of the records of the proceedings.

<sup>16</sup> Folio 53 of the records of the proceedings.

<sup>17</sup> Folio 159 of the records of the proceedings.

338(m) of Chapter 9 of the Laws of Malta, Section 339(1)(b) of Chapter 9 of the Laws of Malta, Sections 17, 31, 49 and 50 of Chapter 9 of the Laws of Malta and Section 6 and 51(7) of Chapter 480 of the Laws of Malta, and therefore in terms of Section 370(3)(a) of Chapter 9 of the Laws of Malta sent the accused to be tried by the Court;

After having heard the Prosecution declare that it has no further evidence to submit and after having heard the accused declare that he has no objection to his case being dealt with summarily, and after having read out the Articles as put forth by the Attorney General<sup>18</sup>;

After having considered that by a Decree dated 17<sup>th</sup> September 2018<sup>19</sup> the Court acceded to the request by the accused for a Social Inquiry Report to be drawn up so that the Court can be provided with a guideline as to how it is to treat the accused in an eventual judgement so that his psychological and psychiatric issues can be duly addressed;

After having seen and considered that the Probation Officer entrusted with the drawing up of the Social Inquiry Report with regard to the accused is Charisse Boffa<sup>20</sup>;

After having heard testimony by Gail Debono during the sitting held on the 11<sup>th</sup> July 2018<sup>21</sup>, by Dr. Joseph Spiteri during the sitting held on the 7<sup>th</sup> August 2018<sup>22</sup>, by Dr. Jean Pierre Giorgio<sup>23</sup> and Dr. Claire Axiaq<sup>24</sup> during the sitting held on the 28<sup>th</sup> August 2018, by Dr. Rachel Taylor East during the sitting held on the 5<sup>th</sup> September 2018<sup>25</sup>, by Oswald Balzan during the sitting held on the 17<sup>th</sup> September 2018<sup>26</sup>, by the Probation Officer Cherise Boffa during the sitting held on the 18<sup>th</sup> October 2018<sup>27</sup> and also the testimony by Maria Dolores Fenech, Assistant Registrar Criminal Courts, during the sitting held on the 12<sup>th</sup> November 2018<sup>28</sup> and considered the documents submitted by her marked Doc. "MF" a folio 199 to 204 of the proceedings;

After having heard the accused, during the sitting held on the 22<sup>nd</sup> November 2018, plead guilty to all the charges brought against him;

After having considered submissions regarding punishment;

After having considered all the records of these proceedings;

### **Considers:**

The accused is being charged of having on the 9<sup>th</sup> September 2017, at around 02:45hrs, in St. Paul's Bay: (1) Without the intent to kill or to put the life of Stefan Sulak in manifest jeopardy, with the use of a proper arm or arms improper, caused harm to the body or the health of the said Stefan Sulak, which harm is of a grievous nature as certified by Dr. Peter Agius M.D., in breach of Sections 217 and 218 of Chapter 9 of the Laws of Malta; (2) On the same date, place and time carried outside any premises or appurtenance thereof, a knife or cutting or pointed instrument of any description without a licence or permit from the

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<sup>18</sup> Folio 160 of the records of the proceedings.

<sup>19</sup> Folio 183 of the records of the proceedings.

<sup>20</sup> Folio 188 of the records of the proceedings.

<sup>21</sup> Folio 166 and 167 of the records of the proceedings.

<sup>22</sup> Folio 170 and 171 of the records of the proceedings.

<sup>23</sup> Folio 174 and 175 of the records of the proceedings.

<sup>24</sup> Folio 176 to 178 of the records of the proceedings.

<sup>25</sup> Folio 180 to 182 of the records of the proceedings.

<sup>26</sup> Folio 184 to 186 of the records of the proceedings.

<sup>27</sup> Folio 191 to 194 of the records of the proceedings.

<sup>28</sup> Folio 197 and 198 of the records of the proceedings.

Commissioner of Police in breach of Section 6 of Chapter 480 of the Laws of Malta; (3) On the same date, place, time and circumstances breached the conditions of bail decreed on the 21<sup>st</sup> June 2016, by the Court of Magistrates presided by Dr. Charmaine Galea LL.D., in breach of Section 579(1),(2) and (3) of Chapter 9 of the Laws of Malta; (4) On the same date, time and place, without inflicting any wound or blow, threatened with stones or other hard substances, or threw or took up any other weapon against Jan Hejl, Stepan Mosler, Patrick Soukip and Jakub Stejskal in breach of Section 339(b) of Chapter 9 of the Laws of Malta; and (5) On the same date, time and place, disturbed the repose of the inhabitants by rowdiness or bawling or in any other manner, in breach of Section 338(m) of Chapter 9 of the Laws of Malta.

Initially the accused pleaded not guilty of the charges brought against him, however he subsequently changed his plea to a guilty plea to all the charges brought against him.

After considering the testimony given during the course of these proceedings, in particular testimony given by Stepan Mosler<sup>29</sup>, Jackup Stejskal<sup>30</sup>, Stefan Sulak<sup>31</sup>, Jan Hejl<sup>32</sup>, Inspector Godwin Scerri<sup>33</sup> and the documents submitted by the said Inspector marked Doc. “GS1” to Doc. “GS3” at folio 84 to 88 of the records of the proceedings, Doc. “GV” at folio 121 of the records of the proceedings and Doc. “X” at folio 131 to 153 of the records of the proceedings, and testimony by Dr. Pierre Agius<sup>34</sup> and Dr. Michael Spiteri<sup>35</sup>, the Court finds no reason why it should not accept the guilty plea submitted by the accused during the sitting held on the 22<sup>nd</sup> November 2018.

In view of the said guilty plea the Court finds the accused guilty of the first, second, fourth and fifth charge brought against him and it also finds him guilty of the third charge brought against him. The Court further deems that it is to treat the accused as a recidivist in terms of Sections 49 and 50 of Chapter 9 of the Laws of Malta.

In so far as concerns punishment the Court, whilst considering the nature of the offences to which the accused has pleaded guilty, it is also taking into account testimony given by the various psychiatrists and psychologists who gave their testimony in these proceedings, in particular Gail Debono<sup>36</sup> and Dr. Rachel Taylor East<sup>37</sup>, and it is also taking into account testimony given by the Probation Officer Charisse Boffa<sup>38</sup>, entrusted with the Social Inquiry Evaluation with regard to the accused, from which it transpired that apart from a possible effective imprisonment term, the accused needs to be placed under a treatment order for the purposes of his proper rehabilitation.

In the Note dated 11<sup>th</sup> April 2018<sup>39</sup>, the Attorney General declared that from the preliminary investigation against the accused there might result and offence or offences under the provisions of Sections 214, 215, 216, 217 of Chapter 9 of the Laws of Malta, Section 579 of Chapter 9 of the Laws of Malta, Section 338(m) of Chapter 9 of the Laws of Malta, Section 339(1)(b) of Chapter 9 of the Laws of Malta, Sections 17, 31, 49 and 50 of

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<sup>29</sup> Sitting held on the 11<sup>th</sup> September 2017, folio 11 to 19 of the records of the proceedings.

<sup>30</sup> Sitting held on the 11<sup>th</sup> September 2017, folio 20 to 23 of the records of the proceedings.

<sup>31</sup> Sitting held on the 25<sup>th</sup> September 2017, folio to 39 of the records of the proceedings.

<sup>32</sup> Sitting held on the 19<sup>th</sup> October 2017, folio 65 to 74 of the records of the proceedings.

<sup>33</sup> Sittings held on the 26<sup>th</sup> October 2017, folio 89 to 94 of the records of the proceedings, 18<sup>th</sup> December 2017 at folio 122 of the records of the proceedings and 6<sup>th</sup> March 2018, folio 154 of the records of the proceedings.

<sup>34</sup> Sitting held on the 30<sup>th</sup> November 2017, folio 114 and 115 of the records of the proceedings.

<sup>35</sup> Sitting held on the 11<sup>th</sup> December 2017, folio 117 to 119 of the records of the proceedings.

<sup>36</sup> Sitting held on the 11<sup>th</sup> July 2018, folio 166 and 167 of the records of the proceedings.

<sup>37</sup> Sitting held on the 5<sup>th</sup> September 2018, folio 180 to 182 of the records of the proceedings.

<sup>38</sup> Sitting held on the 18<sup>th</sup> October 2018, folio 191 to 194 of the records of the proceedings.

<sup>39</sup> Folio 159 of the records of the proceedings.

Chapter 9 of the Laws of Malta and Section 6 and 51(7) of Chapter 480 of the Laws of Malta, and therefore in terms of Section 370(3)(a) of Chapter 9 of the Laws of Malta and therefore:

- After considering Sections 17, 31, 49, 50, 214, 215, 216, 217, 338(m) and 339(1)(b) of Chapter 9 of the Laws of Malta and Sections 6 and 51(7) of Chapter 480 of the Laws of Malta, the Court reiterates that it is finding the accused guilty of the first, second, fourth and fifth charges brought against him and condemns him to an effective term of imprisonment of one (1) year six (6) months;
- After considering Section 579 of Chapter 9 of the Laws of Malta the Court reiterates that it is finding the accused guilty also of the third charge brought against him and condemns him to an effective term of imprisonment of five (5) months.

Since from testimony given by the Assistant Registrar Criminal Courts Maria Dolores Fenech during the sitting held on the 12<sup>th</sup> November 2018<sup>40</sup> and documents submitted by her during the said sitting, it transpires that the deposit imposed by the Court of Magistrates (Malta) presided over by Magistrate Dr. Charmaine Galea in the Decree dated 21<sup>st</sup> June 2016 in the amount of one thousand Euro (€1,000) for the accused to be granted bail in those proceedings has been withdrawn by the Gordon John Tartaglia, the person who provided the monies to the accused for the purposes of such deposit, in virtue of a Decree by the Criminal Court dated 18<sup>th</sup> May 2018<sup>41</sup>, to date the sum still subject to forfeiture in terms of Section 579(2) of Chapter 9 of the Laws of Malta is the personal guarantee amounting to ten thousand Euro (€10,000) imposed by the above-mentioned Decree dated 21<sup>st</sup> June 2016.

Therefore in terms of Section 579(2) of Chapter 9 of the Laws of Malta the Court orders the forfeiture in favour of the Government of Malta of the sum of ten thousand Euro (€10,000) imposed on the accused by the Court of Magistrates (Malta) presided over by Magistrate Dr. Charmaine Galea in the Decree dated 21<sup>st</sup> June 2016, which sum is to be paid by not later than the 26<sup>th</sup> November 2018, failing which payment the accused is to be detained for a further effective period of seven (7) months with effect from the 27<sup>th</sup> November 2018.

Since the pointed instrument used in the incident forming the merits of these proceedings has never been found and thus hasn't been exhibited in the records of these proceedings, the provision set out in Section 56 of Chapter 480 of the Laws of Malta does not apply in this case.

Furthermore and for the purpose of proper arrangements being made for the treatment of the accused for his substance abuse problem, aggressive behaviour and other psychological and/or psychiatric problems the accused might have, in terms of Section 412D of Chapter 9 of the Laws of Malta, the Court also places the accused under a Treatment Order for a period of two (2) years six (6) months from date of this judgment, subject to the conditions set out in the relative Decree issued today, which Decree also forms an integral part of this judgment.

The Court explained to the accused in ordinary language the effects of the Treatment Order under which he is being placed and that if at any time during the period that the Treatment Order is in force he fails to comply with any of the

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<sup>40</sup> Folio 197 and 198 of the records of the proceedings.

<sup>41</sup> Folio 202 of the records of the proceedings.

requirements or conditions of the said Treatment Order, he may be subjected to the imposition of a fine (*ammenda*) not exceeding one thousand one hundred and sixty four Euro and sixty nine cents (€1,164.69).

In terms of Sections 382A and 412C of Chapter 9 of the Laws of Malta, the Court further subjects the accused to a Restraining Order for the protection of Stepan Mosler, Jackup Stejskal, Stefan Sulak, Jan Hejl and Patrick Soukip and this for the term and under the conditions set out in the relative Decree delivered today, attached to this judgement and forming an integral part thereof. The Court explained to the accused the legal consequences should he infringe the Restraining Order being imposed on him.

In view of the Treatment Order under which the accused has been placed, the Court informs the Director of Corradino Correctional Facility that for the purpose of the said Treatment Order the accused be transferred with immediate effect to the Forensic Unit at Mount Carmel Hospital.

The Court orders that this judgement and the records of the proceedings be transmitted to the Attorney General with the time limit set out in the Law.

**MAGISTRATE**

**DEPUTY REGISTRAR**