

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

Magistrate

Dr Rachel Montebello B.A. LL.D.

**The Police
(Inspector Godwin Scerri)**

Vs

JOHN GABIRIEL
[Nigerian Passport Number AO6047005]

Today, 8th April 2019

The Court,

Having seen that **JOHN GABIRIEL** holder of Nigerian Passport No. AO6047005, was arraigned and charged with:-

Having on the 7th April 2019 at around midnight in the limits of Fra Ben in St. Paul's Bay had in his possession the whole or any portion of the plant Cannabis in terms of Section 8(d) of the Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for his personal use;

Having on the same date, place and circumstances, had in his possession the whole or any portion of the plant Cannabis in terms of Section 8(d) of the Chapter 101 of the Laws of Malta; and

Having whilst in the Maltese Islands during the same mentioned period of having led an idle and vagrant life in breach of Article 338(w) of Chapter 9 of the Laws of Malta.

Having seen that during the hearing of the 8th April 2019, after having heard the accused declare that he does not understand the Maltese language but understands the English language, the proceedings were ordered to be conducted in the English language;

Having seen that during his arraignment at the hearing of the 8th April 2019, the accused admitted his guilt on all charges;

Having seen that the accused, after having been afforded more time in order to consult with his defence lawyer and reconsider his guilty plea, and also after the Court explained to him the import of his plea, the nature of the charges brought against him and the punishment for each charge, confirmed his admission of guilt;

Having heard the submissions of both the Prosecution and the defence regarding the punishment to be inflicted on the accused in consequence of his guilty plea;

Having seen all the acts of the proceedings;

Having considered;

The accused, in the presence of his legal aid counsel and voluntarily, admitted to and registered a guilty plea in respect of the three charges brought against him. Consequently and in the light of this guilty plea, the Court deems that the charges have all been duly and sufficiently proven at Law and therefore finds the accused guilty of all such charges.

Regarding the punishment to be inflicted upon the accused as a result of his guilty plea, the Court took several factors into consideration, including the serious nature of the crimes of which the accused is being found guilty, that is the possession of the whole or any part of the plant Cannabis including in circumstances denoting that such possession was not intended for his personal use, and of having led a vagrant and idle life. Indeed the accused admitted in his statement to having been in possession of the said drug with the intention of selling it on to third parties. He also admitted to having nowhere to sleep and no work.

The Court cannot but consider that this indolent way of life continues to be further aggravated by the fact that instead of searching for a legitimate means of income and earning a decent living, the accused chose to take the wrong path into a life of criminality by selling prohibited and dangerous drugs, endangering other persons' life in the process. This, the Court cannot condone under any circumstances.

Nonetheless, the Court also took into account the early admission of the accused, his evident regret at having committed this crime and his full co-operation in the relative Police investigations into the matter.

For the purpose of punishment, the Court also took due note of the material concurrence of the offences which the accused has admitted to and of which he is being found guilty, and with due application of the provisions of Article 17(d) of Chapter 9 of the Laws of Malta and also with due regard to the fact that the crime in the second charge is in any event contained within the crime in the first charge, deems that the punishment that is to be inflicted on the accused is that of the graver crime contained in the first charge, while no punishment is to be awarded for the contravention object of the third charge.

Decide

For these reasons, the Court, after having seen Article 8(d) and Article 22(2)(b) of Chapter 101 of the Laws of Malta, and Article 17(b) and (d) and Article 388(w) of Chapter 9 of the Laws of Malta, finds JOHN GABIRIEL guilty upon his own admission, of all charges brought against him and condemns him to the punishment of an effective term of imprisonment of nine (9) months.

With the application of the provisions of the proviso to sub-article (2) of Article 22 of Chapter 101 of the Laws of Malta, the Court also orders the forfeiture in favour of the Government of Malta and the consequent destruction of all articles forming part of Dok. GS8 exhibited in the acts of these proceedings.

**Dr. Rachel Montebello
Magistrate**