



**Court of Magistrates (Malta)
As A Court of Criminal Judicature**

Magistrate Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)

Today, the 14th day of June, 2021

**The Police
(Inspector Roderick Attard)**

-vs-

Kingsley Oakihena, holder of Italian Identity Card no. AX5725084

Criminal Proceedings No. 402/2019

The Court,

Having seen the charges brought against the defendant **Kingsley Oaikhena**, who is being charged with having:

1. On the 7th of July 2019 at about 16:00hrs, within or in the vicinities of dwelling number 36, St Catherine, Triq l-Ispirtu s-Santu, Zejtun, with the intent to cause gravies bodily harm on the person of Cletus Igotie by one of the means mentioned in Article 217 of Chapter 9 of the Laws of Malta, (pointed or cutting instrument), by ways of external acts commenced the execution of a crime, which crime has not been completed due to something accidental and independent from his will.

2. **And on having on the same date, time and place**, by one of the means mentioned in Article 217 of Chapter 9 of the Laws of Malta (knife), without the intent to kill or to put the life of Cletus Igotie in manifest jeopardy, caused slight bodily harm on the person of Cletus Igotie as certified by Dr Sarah Hagi (Med Reg Num and this in violation of article 221 subarticle (2) of chapter 9 of the laws of Malta.
3. **And of having on the same date, time and place**, been in possession of a pointed instrument or knife outside or in the vicinities of a dwelling without the licence or permit issued by the police commissioner and this in violation of article 3 of Chapter 480 of the laws of Malta.

The court was requested that in case guilt is found in the proceedings, orders the accused to pay any costs incurred in the appointments of any court expert if the case is in accordance with provisions of article 533 of chapter 9 of the Laws of Malta.

The court was requested that during court proceedings and in case guilt is found it provides for the safety and security of Cletus Igotie in provisions with article 412C of chapter 9 of the laws of Malta.

Whereas having seen the application of the 6th May, 2021, filed jointly by the Attorney General and the defendant Kingsley, in terms of Article 392A(5) of the Criminal Code, by means of which the Court is being informed that an agreement had been reached that in the event that the defendant admits to all the charges against him, the punishment to be awarded by this same Court will consist of a term of imprisonment of three (3) years and a fine (multa) of one hundred and sixteen Euro and forty seven cents (€116.47), together with any other sanction and consequences that are mandatorily prescribed by law upon conviction in terms of Chapters 9 and 480 of the Laws of Malta;

Whereas having, in today's sitting, heard the defendant plead guilty to all charges brought against him notwithstanding the fact that the Court warned him in the most solemn manner of the legal consequences of his guilty plea, and after having given him sufficient time within which to reconsider and withdraw his guilty plea;

Having seen all the acts and documents exhibited;

Considers,

Having heard the guilty plea of the defendant to the charges brought against him, the Court has no alternative but to declare the defendant guilty of the said charges.

With regards to punishment the Court notes that this judgement is being awarded following a joint application made by the Attorney General and the defendant in terms of article 392A(5)(6)(7) of the Criminal Code.

Having seen the defendant's clean criminal record, and after taking into consideration the serious nature of the charges of which he is being found guilty and the circumstances of the case, in particular that it could not hear the victim's views with regards to punishment.¹

In terms of Article 392A(7) of the Criminal Code, the Court is satisfied that the punishment requested in the joint application afore-mentioned, is such that it shall be lawful for it to impose same on the defendant.

In view of the foregoing, the Court, after having seen articles 17, 31, 41(1)(a), 214, 216(1)(a)(ii)(iii)(b)(d), 221(1)(2) and 217 of the Criminal Code, Chapter 9 of the Laws of Malta and articles 6 and 51(7) of the Arms Act, Chapter 480 of the Laws of Malta, finds the defendant guilty of the charges brought against him and condemns him to **three (3) years imprisonment** and a fine (*multa*) of one hundred and sixteen Euro and forty-seven cents (**€116.47c**).

In terms of Article 23 of the Criminal Code, and only when these proceedings are **res judicata**, orders the forfeiture of all items exhibited in these proceedings.

¹ Vide **Ir-Repubblika ta' Malta vs Abdelsalam Rawad Briga**, Decided by the Court of Criminal Appeal (Superior Jurisdiction), 26.05.2021:

Jingħad ukoll illi lllum l-artikolu 6 tal-Kapitolu 539 tal-Liġijiet ta' Malta, jagħti lehen lil vittmi tar-reati, meta d-Direttiva 2012/29/UE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Ottubru 2012 li tistabbilixxi standards minimi fir-rigward tad-drittijiet, l-appoġġ u l-protezzjoni tal-vittmi tal-kriminalità, ġiet tramandata fil-qafas legiſlattiv ta' pajjiżna. Illi din il-liġi tagħti il-jedd lil vittma tal-kriminalità' li tkun infurmata f'kull waqt tal-proċediment b'dak kollu li jkun qed iseħħ anke jekk din ma tkunx qed tipparteċipa b'mod attiv fil-kawża. B'hekk għandha tingħata "**kull informazzjoni li tippermetti il-vittma li tkun mgharrfa bis-sitwazzjoni tal-proċedimenti kriminali** [Sub-inċiż 1(d) għall-artikolu 6], u allura mhux biss illi tkun mgharrfa bis-sentenza finali. Dan ifisser allura illi b'rispett lejn id-dritt komunitarju kif ġie traspost fil-liġi Maltija, kienet miżura ta' bwon sens illi l-Qorti Kriminali tagħzel li tisma' lil vittma qabel tiddeċiedi jekk għandhiex taderixxi ruħha mal-patteġġjament milħuq bejn l-appellant u l-Avukat Ġenerali, u dan setgħet tagħmlu, kif ingħad, bis-setgħa mogħtija lilha bl-artikolu 392B(4) tal-Kodiċi Kriminali.

18. Illi allura din il-Qorti tqies illi l-Qorti Kriminali mxiet in konformita' ma' liġi li spiss u sfortunatament ma tiġix applikata bis-siħ, tant illi l-vittma f'dan il-każ ma jidhirx li rċeviet l-appoġġ li kienet tenħtieġ u għadha qed tbatu mill-effetti psikoloġiċi kaġun ta' dan ir-reat fejn ġiet aggređieta bi vjolenza u sofriet griehi serji. Dan għaliex:

"Il-kriminalità hija dannu kontra s-soċjetà kif ukoll ksur tad-drittijiet individwali tal-vittmi. Għalhekk, il-vittmi tal-kriminalità għandhom jiġu rikonoxxuti u trattati b'rispett u b'mod sensitiv u professjonali mingħajr diskriminazzjoni [Preambolu 9 tad-Direttiva]"

Moreover, and in terms of Article 56 of the Arms Act, orders the forfeiture of the knife documented as part of Exhibit KA393/2019.² The Registrar of Courts is to draw up a *proces-verbal* attesting to the destruction of the said items.

Finally, in terms of article 533 of the Criminal Code, condemns the defendant to the payment of €3,828.67c representing costs incurred in the employment in the proceedings of any expert or referee.

Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)
Magistrate

² Fol.86