

**Qorti tal-Magistrati (Malta)
Bhala Qorti ta' Gudikatura Kriminali
Magistrat Dr Claire L. Stafrace Zammit B.A., LL.D.**

**Il-Pulizija
[Spettur Joseph Busuttil]
[Spettur Dorianne Tabone]**

vs

-Omissis-

Kumpilazzjoni Numru: 506/2020

Illum, sbatax (17) ta' Lulju, 2023

Il-Qorti;

Rat l-akkuzi migjuba kontra -Omissis- detentur tal-karta tal-identità -Omissis- akkuzat talli:

Bejn is-snin 2013 u 2015 gewwa dawn il-Gzejjer, b'diversi atti maghmulin minnu ukoll jekk fi zminijiet differenti li jiksru l-istess dispozizzjoni tal-ligi, u li gew maghmula b'rizoluzzjoni wahda;

Ippartecipa f'attivitajiet sesswali ma' persuna taht l-età u cioè - Omissis- mwieled fit—Omissis-;

Art 204C ta' Kap 9 tal-ligijiet ta' Malta.

Aktar talli matul is-sena 2020, permezz ta' teknoloġiji ta' informazzjoni u komunikazzjoni, ippropona li jiltaqa' ma persuna ta' taht l-età cioè -Omissis- mwieled fl—Omissis- bil-hsieb li jitwettaq xi reat taht l-artikoli 204, 204A sa 204D it-tnejn inkluzi, u 208A u dik il-proposta giet segwita b'atti materjali li wasslu ghal dik il-laqgħa.

Art. 208AA 1 ta' Kap 9 tal-Ligijiet ta' Malta.

Il-Qorti giet mitluba li f'kaz ta' htija minbarra li tinflingi l-pieni stabbiliti mill-Ligi, tordna lill-imsemmija persuna sabiex thallas l-ispejjez li għandhom x'jaqsmu mal-hatra ta' l-esperti, jekk ikun il-kaz, kif provdut fl-Art 533 tal-Kap. 9 tal-Ligijiet ta' Malta.

Il-Qorti giet mitluba sabiex barra milli tapplika il-piena skond il-ligi, tapplika wkoll l-artikoli 383, 384 u 385 tal-Kap 9 tal-ligijiet ta' Malta għas-sigurta tal-vittmi fuq imsemmija;

Il-Qorti giet mitluba li jekk jidrilha xiraq tordna ordni ta' trattament skond Art 412D ta' kap 9 tal-ligijiet ta' Malta.

Rat l-ezami tal-imputat fil-prezentata fejn huwa wiegħeb mhux hati tal-akkuzi kif dedotti kontrih;

Rat il-fedina penali tal-imputat li hija wahda netta;

Rat in-nota tal-Avukat Generali datata erbgha (4) ta' Ottubru, 2020 fejn ta l-kunsens sabiex dawn il-proceduri jigu trattati b'mod sommarju.

IKKUNSIDRAT

Illi a rigward l-ewwel akkuza, dan huwa kaz car fejn l-imputat - Omissis- kellu x'jaqsam sesswalment ma' minuri tal-età tieghu izda fejn l-istess akkuzat kien ukoll taht l-età (13-15-il sena). Illi li kieku ma kinitx ghat-tieni (2) akkuza li sehhet meta l-imputat kien maggjorenni, kien jidher quddiem il-Qorti tal-Minorenni.

Illi l-Qorti semghet u fliet ir-rapport tal-esperti nominati minn din il-Qorti kif diversament komposta fejn taw rendikont dettaljat tat-trobbija tal-imputat kif ukoll li hu qed ibati minn personality disorder fejn anke fil-passat kien ghamel tentattiv ta' suwucidju.

Punti saljenti li hargu minn dan ir-rapport huma in succinct:

- i) *-Omissis- is a very vulnerable young man who is under severe psychological distress;*
- ii) *-Omissis- does not have a learning disability and is of normal intellectual ability;*
- iii) *He exhibits features of **Post Traumatic Stress Disorder with Borderline Personality Disorder;***
- iv) *He also has ongoing symptoms but does not meet criteria for a diagnosis of Major Depressive Disorder. . . but is at an **elevated risk of suicide;***
- v) *-Omissis- **does not meet diagnostic criteria for Paedophilic Disorder;***
- vi) *Sexual orientation towards younger males is likely to continue. This needs to be addressed in long term therapy*

to ensure that risk is managed, and acting on impulses involving minors is avoided;

vii) ***The fear of rejection remains a driving force in these patterns;***

viii) ***Recommendations***

As such, our recommendation to this honourable court is as follows:

- 1. -Omissis- remains a very vulnerable individual, and should be supported by a Community Mental Health Team, including a psychiatrist and psychologist. These would work to assist -Omissis- in his mental health difficulties as described above, and also to minimise and mediate the risk of suicide.*
- 2. Further separating -Omissis- from his family only served to increase his distress and isolation. As such, we recommend that contact with his father, step-siblings and grand-parents is resumed.*
- 3. While risks due to sexual orientation towards younger males persist, -Omissis- has not denied or attempted to conceal his interests. He has considerable insight into his urges, and has shown considerable commitment to therapy – attending regularly. Therefore, monitoring within an appropriate framework would allow for risk management, and conditions could include commitment to treatment as outlined above.*
- 4. If -Omissis- is to receive a custodial sentence, then extra caution should be taken due to further elevated risk of suicide.*

IKKUNSIDRAT

Illi l-imputat ammetta l-akkuzi kif dedotti kontrih fis-seduta tas-17 ta' Lulju 2023 u dan wara li nghata zmien opportun sabiex jikkonsidra l-pozizzjoni tieghu;

Rat illi meta gie kommess l-ewwel (1) reat l-imputat kien ghadu minorenni u l-parte civile kellu l-istess età tieghu izda ghat-tieni (2) reat huwa kien lahaq sar maggjorenni;

Rat illi l-imputat adegwa ruhu ghat-terapija moghtija lilu tant li dejjem kien konsistenti fl-appuntamenti u fetah qalbu ghal dak li kien qed inikktu fil-passat u ghalhekk wera bic-car li huwa konxju tal-izball li ghamel u lest li jkompli jiehu l-ghajnuna;

Rat ir-rapport tal-psikjatra Dr Rachel Taylor East u l-psikologa Dr Gail Debono u r-rizultanzi tagghom;

Illi ghaldaqstant din il-Qorti ma hijiex ser taghti piena karcerarja izda wahda li tkun idonea fic-cirkostanzi kollha tal-fatti kif elenkati aktar 'il fuq f'din is-sentenza.

Ghal dawn il-motivi u wara li rat l-Artikoli 37(2), 204C(1) u (3), 533 tal-Kapitolu 9 tal-Ligijiet ta' Malta, qed issib lill-imputat -**Omissis**- hati tal-akkuzi kif dedotti kontrih fuq ammissjoni u bl-applikazzjoni tal-Artikolu 22 tal-Kapitolu 446 tal-Ligijiet ta' Malta tilliberah bil-kundizzjoni li ma jikkommettix reat iehor fi zmien tliet snin (3) mil-lum. Illi inoltre u a bazi tal-Artikolu 412D tal-Kapitolu 9 tal-Ligijiet

ta' Malta qed tpoggih taht Ordni ta' Trattament sabiex ikompli jigi segwit minn professjonisti u dan ghal zmien tliet (3) snin u liema ordni ghandha tiffirma parti integrali ma' din is-sentenza.

Ulterjorment u a bazi tal-Artikolu 533 tal-Kapitolu 9 tal-Ligijiet ta' Malta, il-Qorti qed timponi lill-imputat -Omissis- sabiex ihallas l-ispejjez peritali li jammontaw ghal erba' mija u sitta u hamsin ewro u seba' centezmi (€456.07).

Finlament il-Qorti spjegat fi kliem semplici r-riperkussjonijiet jekk din l-ordni ma tigix obduta.

Ft./Dr Claire L. Stafrace Zammit B.A., LL.D.
Magistrat

Benjamina Mifsud
Deputat Registratur