



CRIMINAL COURT

**HON. MR. JUSTICE
JOSEPH GALEA DEBONO**

Sitting of the 4 th October, 2004

Number 3/2004

The Republic of Malta
Vs
Gregory Robert Eyre
And
Omissis

The Court,

Having seen the bill of indictment no. 03/2004 against the accused Gregory Robert Eyre and omissis wherein they were charged with:

- 1) After the Attorney General premised in the First Count of the Bill of Indictment that from investigations conducted by the Malta Police, in the light of a tip-off to the effect that a couple arriving on a transit flight from Spain were planning to bring in drugs some time in August, two thousand and three, there began to emerge a clear picture in which it resulted that indeed, during the period

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of a number of weeks prior to the 11th August, 2003, Gregory Eyre and omissis had conspired and agreed between them, together with another unknown person abroad who had been exporting drugs to Malta every month for the last fifteen years, to involve themselves in dealing in, and trafficking in drugs.

That not only had they agreed, but they had also concurred on the means to be employed in the realization of said conspiracy. The means to be employed were quite simple: Eyre had to call in an apartment in a complex in Spain, take hold of a luggage in which were concealed drugs, destined for someone who lived in Saint Julians, get paid, go back to Spain and deliver the money to said unknown person. For all his involvement, Gregory Eyre was to be paid a twenty thousand Sterling commission in Spain on August seventeenth, and two thousand Maltese Liri in commission by the Maltese buyer and some spending money. On her part, omissis, Eyre's girlfriend, had to accompany him to Malta so that he would look less suspicious, although she did not specifically know that drugs were to be imported illegally into Malta, but merely thought and was convinced that something against the law was to be imported into Malta (such as money in order to evade tax on currency).

That by committing the above mentioned acts with criminal intent, Gregory Eyre and omissis rendered themselves guilty of conspiracy to trafficking in dangerous drugs in breach of the provisions of the Dangerous Drugs Ordinance and the Medical and Kindred Professions Ordinance.

Wherefore, the Attorney General, in his aforesaid capacity, accused Gregory Robert Eyre and omissis of being guilty of having, with another one or more persons in Malta, and outside Malta, conspired for the purpose of committing an offence in violation of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), and the Medical and Kindred Professions Ordinance (Chapter 31), and specifically of importing and dealing in any manner in cocaine and Ecstasy Pills, and of

having promoted, constituted, organized and financed such conspiracy.

Demanded that the accused be proceeded against according to law, and that each one of them be sentenced to the punishment of imprisonment for life and to a fine of not less than one thousand Maltese Liri (Lm1000), and of not more than fifty thousand Maltese Liri (Lm50,000), and the forfeiture in favour of the Government of the entire moneys, immovable and movable property in which the offence took place as described in the bill of indictment, even if such moneys and property would have passed into the hands of third parties, and even if the said moneys, movable property or immovable property are situated in any place outside Malta, as is stipulated and laid down in sections 9, 10(1), 12, 14(1)(5), 15A, 20, 22(1)(a)(f)(1A)(1B)(2)(a)(l)(3A)(c)(d), 22(f) and 26(1)(2) of the Dangerous Drugs Ordinance (Chap.101), together with sections 120A(2)(a)(l), 2(A)(2B) and 121A(1)(2) of Chapter 31, and in sections 17(b), 20, 22, 23 and 533 of the Criminal Code, including the issue of a Removal Order with respect to accused in terms of sections 5(2)(b) and 15 of the Immigration Act, or to any other punishment applicable according to law to the declaration of guilty of the accused.

2) And after the Attorney General premised in the Second Count of the Bill of Indictment that on Monday, the eleventh of August of the year two thousand and three, Gregory Eyre and omissis arrived in Malta from Spain. With him, that is to say Gregory Eyre, and well hidden in a suitcase he was carrying, there were two packets of substance, having the appearance of gift-wrapped packages, later analysed to be cocaine, with a net weight of over three kilogrammes and a high percentage of purity.

That an unknown person in Spain had himself hidden the cocaine in that manner while still in Spain. On the day in question, and during the last preceding days, Gregory Eyre and omissis had meant to import and bring into Malta, that amount of cocaine in order that it be passed on

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to third persons in Malta with the aim of selling and dealing in it locally.

That cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Neither of Gregory Eyre and omissis was in possession of any valid and subsisting import authorization granted in pursuance of said law.

That by committing the above mentioned acts with criminal intent, Gregory Eyre and omissis rendered themselves guilty of the importation of a dangerous drug into Malta.

Wherefore, the Attorney General, in his aforesaid capacity, accused each of Gregory Robert Eyre and omissis of being guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drug Ordinance, when neither was in possession of any valid and subsisting import authorization granted in pursuance of said law.

Demanded that each of the accused be proceeded against according to law, and that he and she be sentenced to the punishment of imprisonment for life and to a fine of not less than one thousand Maltese Liri (Lm1000) , and of not more than fifty thousand Maltese Liri (Lm50,000), and the forfeiture in favour of the Government of the entire moneys, immovable and movable property in which the offence took place as described in the bill of indictment, even if such moneys and property would have passed into the hands of third parties, and even if the said moneys, movable property or immovable property are situated in any place outside Malta, as is stipulated and laid down in sections 2(1), 4, 9, 10, 12, 14, 15A, 20, 22(1)(a)(1B)(2)(a)(i)(3A)(d), 22E and 26(1)(2) of the Dangerous Drugs Ordinance (Chap. 101) and in sections 23, 17(b) and 533 of the Criminal Code, including the issue of a Removal Order with respect to accused in terms of sections 5(2)(b) and 15 of the

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Immigration Act, or to any other punishment applicable according to law to the declaration of guilty of the accused.

3) And after having premised in the third Count of the Bill of Indictment that on Monday, the eleventh of August of the year two thousand and three, Gregory Eyre and omissis arrived in Malta from Spain. With him, that is to say Gregory Eyre, and well hidden in a suitcase he was carrying, there were two packets of substance, having the appearance of gift-wrapped packages, later analysed to be the designer drug Ecstasy Pills, with a net amount of seven thousand and one hundred pills.

That an unknown person in Spain had himself hidden the Ecstasy Pills in that manner while still in Spain. On the day in question, and during the last preceding days, Gregory Eyre and omissis had meant to import and bring into Malta, that amount of Ecstasy Pills in order that they be passed on to third persons in Malta with the aim of selling and dealing them locally.

That Ecstasy Pills, or rather the designer drug known as MDMA (methylenedioxymethamphetamine), are a dangerous drug restricted and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance. Neither of Gregory Eyre and omissis was in possession of any valid and subsisting import authorization granted in pursuance of said law.

That by committing the above mentioned acts with criminal intent, Gregory Robert Eyre and omissis rendered themselves guilty of the importation of a dangerous drug into Malta.

Wherefore, the Attorney General, in his aforesaid capacity, accused each of Gregory Robert Eyre and omissis of being guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (Ecstasy), being a drug restricted and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance, when

neither was in possession of any valid and subsisting import authorization granted in pursuance of said law.

Demanded that each of the accused be proceeded against according to law, and that he and she be sentenced to the punishment of imprisonment for life and to a fine of not less than one thousand Maltese Liri (Lm1000), and of not more than fifty thousand Maltese Liri (Lm50,000), and the forfeiture in favour of the Government of the entire moneys, immovable and movable property in which the offence took place as described in the bill of indictment, even if such moneys and property would have passed into the hands of third parties, and even if the said moneys, movable property or immovable property are situated in any place outside Malta, as is stipulated and laid down in sections 2(1), 120A(2)(a)(I), (2A)(2B), and 121A(1)(2) of Chapter 31, and in sections 17(h), 20, 22, 23 and 533 of the Criminal Code, including the issue of a Removal Order with respect to accused in terms of sections 5(2)(b) and 15 of the Immigration Act, or to any other punishment applicable according to law to the declaration of guilty of the accused.

4) And after having premised in the Fourth Count of the Bill of Indictment that having, on the 11th August, 2003, and on the days preceding that date, imported into Malta the dangerous drug cocaine in breach of the provisions of Chapter 101 of the Laws of Malta, as described under the second count, Gregory Eyre was immediately shadowed and monitored by the Malta Police, even because the latter had every reasonable suspicion that he was not acting alone in the importation and trafficking of drugs.

Thus, as soon as Gregory Eyre entered the arrivals building at the Malta International Airport, he checked in at the Immigration desk on his own and, thereafter, his luggage was opened with drugs being found in a suitcase which Eyre told police was his.

Blocks of cocaine (three kilos in weight in all) were found in the luggage of Gregory Eyre.

That it became obvious, now, that Gregory Eyre was in possession and in control of the dangerous substance cocaine under such circumstances denoting that such possession and control was not for his exclusive use, even because it resulted that this drug was destined to be handed over for dealing to someone in Saint Julians.

That cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Gregory Eyre was not in possession of any valid and subsisting import or possession authorization granted in pursuance of said law.

That by committing the above mentioned acts with criminal intent, Gregory Eyre rendered himself guilty of the offence of possession of a dangerous drug (cocaine) with intent to supply.

Wherefore, the Attorney General, in his aforesaid capacity, accused Gregory Robert Eyre of being guilty of knowingly having been in possession of a dangerous drug (cocaine) specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance, when not in possession of any valid and subsisting import or possession authorization granted in pursuance of said law; so, however, that such offence was under such circumstances that such possession was not for the exclusive use of the offender.

Demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a fine of not less than one thousand Maltese Liri (Lm1000), and of not more than fifty thousand Maltese Liri (Lm50,000), and the forfeiture in favour of the Government of the entire moneys, immovable and movable property in which the offence took place as described in the bill of indictment, even if such moneys and property would have passed into the hands of third parties, and even if the said moneys, movable property or immovable property are situated in

any place outside Malta, as is stipulated and laid down in sections 2(1), 4, 9, 10, 12, 14, 15A, 20 22(1)(a)(1B)(2)(a)(i)(3A)(d), 22E and 26(1)(2) of the Dangerous Drugs Ordinance (Chap. 101) and Regulation 8 of the 1939 Regulations for the Internal Control of Dangerous Drugs (Legal Notice 292/39), and in sections 20, 22, 23, 17(b) and 533 of the Criminal Code, including the issue of a Removal Order with respect to accused in terms of sections 5(2)(b) and 15 of the Immigration Act, or to any other punishment applicable according to law to the declaration of guilty of the accused.

5) That after having premised in the Fifth count of the Bill of Indictment that always as a result of the stopping and search effected by the Police on the 11th August, 2003, at the Malta International Airport and on the person and effects of Gregory Eyre, the latter was found to be knowingly in possession of some seven thousand and one hundred Ecstasy Pills. Again, as with regard to cocaine, these Pills were destined to be handed over to someone in Saint Julians immediately upon his existing the International Airport.

That ecstasy Pills, or rather the designer drug known as MDMA (methylenedioxymethamphetamine), are a dangerous drug restricted and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance. Gregory Eyre was in possession of any valid and subsisting import authorization granted in pursuance of said law.

That by committing the above mentioned acts with criminal intent, Gregory Eyre rendered himself guilty of the offence of possession of a dangerous drug (Ecstasy Pills), with intent to supply.

Wherefore, the Attorney General, in his aforesaid capacity, accused Gregory Robert Eyre of being guilty of knowingly having been in possession of a dangerous drug (Ecstasy Pills) being a drug restricted and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance, when he was not in

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possession of any valid and subsisting import or in possession of an authorization granted in pursuance of said law; so, however, that such offence was under such circumstances that such possession was not for the exclusive use of the offender.

Demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a fine of not less than one thousand Maltese Liri (Lm1000), and of not more than fifty thousand Maltese Liri (Lm50,000), and the forfeiture in favour of the Government of the entire moneys, immovable and movable property in which the offence took place as described in the bill of indictment, even if such moneys and property would have passed into the hands of third parties, and even if the said moneys, movable property or immovable property are situated in any place outside Malta, as is stipulated and laid down in sections 120A(2)(a)(I), (2A)(2B), and 121A(1)(2), and 120A(1)(f)(2)(a)(I) of the Medical and Kindred Professions Ordinance, Chapter 31, and in Legal Notices 22/85 (regulation 10(2)), 70/88 and 183/99, as well as in sections 22A, 22B, 22E, 27, 28, and 30 of the Dangerous Drug Ordinance, Chapter 101, and in sections 17(b), 20, 22, 23 and 533 of the Criminal Code, including the issue of a Removal Order with respect to accused in terms of sections 5(2)(b) and 15 of the Immigration Act, or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen the application filed by the Attorney General on the 31st. August, 2004, wherein he requested that the accused be subjected to a separate trial from the other co-accused in terms of section 594 of the Criminal Code;

Having seen this Court's decree of the 2nd September, 2004, whereby it upheld said request and ordered that a separate trial be held for each of the two co-accused.

Having seen the joint application filed by the Attorney General and the accused of today's date whereby in

terms of Section 453A(1)(2) of the Criminal Code they submitted that, in the eventuality of the accused pleading guilty to the counts of the bill of indictment, the punishment which should be imposed upon him should be that of imprisonment for a period of fifteen (15) years and a fine (multa) of twenty five thousand Maltese Liri (LM25,000) apart from other sanctions and consequences which are mandatory upon conviction in terms of the provisions of Chapters 31 and 101 of the Laws of Malta, and whereby they requested that this Court should sentence the accused to said punishment;

Having seen that in today's sitting, the accused, in reply to the question as to whether he was guilty or not guilty of the charges preferred against him under the five counts of the Bill of Indictment, stated that he was pleading guilty thereto;

Having seen that this Court then warned the accused in the most solemn manner of the legal consequences of such statement and allowed him a short time to retract it, according to Section 453 (Chap. 9);

Having seen that the accused, being granted such a time, persisted in his statement of admission of guilt;

Declares the accused, namely Gregory Robert Eyre guilty of all five counts in the Bill of Indictment, namely of:

- 1. Having, during the period of a number of weeks prior to the 11th August, 2003, with another one or more persons in Malta, and outside Malta, conspired for the purpose of committing an offence in violation of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), and the Medical and Kindred Professions Ordinance (Chapter 31), and specifically of importing and dealing in any manner in cocaine and Ecstasy Pills, and of having promoted, constituted, organized and financed such conspiracy, as stated in the first count of the Bill of Indictment;**

- 2. On the 11th. August, 2003 , at Malta International Airport, meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance, when he was not in possession of any valid and subsisting import authorization granted in pursuance of said law, as stated in the second count of the Bill of Indictment;**
- 3. On the 11th. August, 2003 , at Malta International Airport ,meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (Ecstasy), being a drug restricted and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance, when he was not in possession of any valid and subsisting import authorization granted in pursuance of said law, as stated in the third count of the Bill of Indictment;**
- 4. On the 11th. August, 2003, at Malta International Airport knowingly having been in possession of a dangerous drug (cocaine) specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance, when not in possession of any valid and subsisting import or possession authorization granted in pursuance of said law; so however, that such offence was under such circumstances that such possession was not for the exclusive use of the offender, as stated in the fourth count of the Bill of Indictment;**
- 5. On the 11th. August, 2004, at Malta International Airport, knowingly, having been in possession of a dangerous drug (Ecstasy Pills) being a drug restricted and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance, when he was not in possession of any valid and subsisting import authorization granted in pursuance of said law; so, however, that such offence was under such circumstances that indicate that such possession was not for the exclusive use of the offender, as stated in the fifth count of the Bill of Indictment;**

Having seen the minute entered by the Prosecution whereby it declared that the accused should benefit from any reduction in punishment as contemplated in section 120A(2B) of Chapter 31 and Section 29 of Chapter 101 of the Laws of Malta;

Having heard submissions of Defence Counsel regarding the plea in mitigation of punishment;

Having considered ALL submissions made by defence counsel which are duly recorded and in particular – but not only – the following, namely that Gregory Robert Eyre was aware of the mistake he had committed and acknowledged his guilt from the outset and also helped the Police by identifying the person who had given him the drugs he had to import to Malta and that this information had actually led to extradition proceedings being taken against the person in question, and that he had indicated that he was considering pleading guilty to the Bill of Indictment at an early stage;

Having heard the evidence under oath of Gregory Robert Eyre where he gave the name of the person who had given him the drugs in question giving details of his particulars and wherein he also declared that he was also prepared to give evidence against said person in any Court of Law, if necessary;

Having considered that prosecuting counsel declared that he had nothing further to add to the contents of the joint application;

Having seen that the first and second counts of the Bill of Indictment are, for purposes of punishment, to be considered as having served as a means for the commission of the offences under the fourth count of the Bill of Indictment, and that the first and third counts of the Bill of Indictment are, for purposes of punishment, to be considered as having served as a means for the commission of the offences under the

fifth count of the Bill of Indictment, for the purpose of and according to Section 17 (h) of Chapter 9 of the Laws of Malta (vide “Ir-Repubblika ta’ Malta vs. Mansour Muftah Nagem” [30.10.2002] ; “Ir-Repubblika ta’ Malta vs. Ahmed Esawi Mohamed Fakri” and others);

Having considered that the punishment laid down by law for the offences of which accused has been declared guilty is imprisonment for life together with a fine multa of not less than LM1000 and not more than LM50000.

Having also considered however that according to section 492 (1) of the Criminal Code, whenever, at any stage prior to the empanelling of the jury, the accused pleads guilty to an offence attracting the punishment of life imprisonment, the Court may, instead of said punishment, award a sentence of imprisonment for a period ranging between eighteen and thirty years.

Having also considered that according to section 22(2)(a)(i)(aa) of Chap.101 and Section 120A (2)(a)(i)(aa) Chap. 31 of the Laws of Malta, when the Court is of the opinion that, having regard to the offender’s age, his previous conduct, the quantity of the medicine and the quality of the equipment or material involved and all the other circumstances of the offence, life imprisonment is not warranted, the Court may sentence the person so convicted to a term of imprisonment of not less than four years and not more than thirty years together with the fine above mentioned.

Having considered both local and foreign case law regarding the plea in mitigation of punishment when the accused person files an early plea of guilt and in particular “**Ir-Repubblika ta’ Malta vs. Nicholas Azzopardi**” [24.2.1997] (Criminal Court); “**Ir-Repubblika ta’ Malta vs. Mario Camilleri**” [5.7.2002] (Court of Criminal Appeal); “**Il-Pulizija vs. Emmanuel Testa**” [17.7.2002] (Court of Criminal Appeal) and others) as well as **BLACKSTONE’S**

CRIMINAL PRACTICE (Blackstone Press Limited 2001 edit) ;

On the other hand having considered that, as stated in BLACKSTONE'S,

"Where an offender has been caught red handed and a guilty plea is inevitable, any discount may be reduced or lost (*Morris [1998] 10 Cr. App. R. (S) 216; Landy [1995] 16 Cr. App. R. (S) 908*)";

Having also considered that the person convicted is to benefit from the provisions of Section 120A (2B) of Chapter 31 and Section 29 of Chapter 101 of the Laws of Malta as evidenced by the minute entered into the records of the case in the course of today's sitting by the Prosecution;

Having on the other hand considered the considerable quantity amounting to 7151 tablets containing the substance 3,4 Methylene dioxy methamphetamine (MDMA) and the quantity (2,988.2 grams), and the purity (70%) of the dangerous drug cocaine also imported into Malta by the convicted person;

Having considered the havoc that the importation and distribution of such a considerable amount of drugs would have caused on the local market had it not been intercepted by Customs and the Police and that the convicted person abused of the hospitality extended to him by Maltese society as a visitor to this Island by using such visits to further his criminal ends and to make a considerable profit thereby ;

Having seen other cases decided by this Court where the facts of the case were somewhat similar - though obviously never identical - for the purpose of maintaining a desirable degree of uniformity in punishment;

Having seen Sections 2(1), 4, 9, 10,10(1) 12, 14, 14 (1)(5), 15A, 20, 22 (1)(a)(f)(1A)(1B), (2) (a)(i)(aa),(f) (i) (3A)(c)(d), 22A, 22B, 22E, 22(f), 26 (1)(2), 27, 28, 29

and 30 of the Dangerous Drugs Ordinance (Chap.101); Sections 120A (2)(a)(i)(aa)(I), (2A)(2B), 121A (1)(2), and 120A (1)(f)(2)(a)(I) of the Medical and Kindred Professions Ordinance, (Chapter 31), Sections 17(a)(b)(h), 20, 22, 23, 453A(1)(2), 492 (1) and 533 of the Criminal Code, as well as sections 5(2)(b) and 15 of the Immigration Act, and Regulation 8 of the 1939 Regulations for the Internal Control of Dangerous Drugs (Legal Notice 292/39), and Legal Notices 22/85 (regulation 10 (2)), 70/88 and 183/99;

Whereas the Court is satisfied that the sanction and punishment agreed to by the Prosecution and the Defence can be legitimately imposed upon the conviction of Gregory Robert Eyre of the crimes to which he has pleaded guilty, agrees with the imposition of such sanction and punishment and upholds such request, according to Section 453A(1)(2) of the Criminal Code;

Condemns said Gregory Robert Eyre to a term of imprisonment of fifteen (15) years and to a fine *multa* of twenty five thousand Maltese Liri (LM25,000) which fine shall be automatically converted into a further term of imprisonment of eighteen (18) months according to law if it is not paid within fifteen days from today and further orders that he should pay the sum of nine hundred and fifteen Maltese Liri and forty two cents (LM915.42c) being the court expenses incurred in this case according to Section 533 of Chapter 9 of the Laws of Malta within fifteen (15) days from today ;

Furthermore orders that all objects related to the offences and all monies and other moveable and immovable property pertaining to the person convicted should be confiscated in favour of the Government of Malta ;

Furthermore the Court is issuing a Removal Order against the person convicted and orders that he is to be deported from these Islands in terms of Sections 5

(2) (b) and 15 of the Immigration Act, as soon as he has served his term of imprisonment and paid the said fine or else served the further term of imprisonment, should such fine be converted into a further term of imprisonment as aforesaid.

Finally the Court orders the destruction of all drugs under the direct supervision of the Deputy Registrar of this Court duly assisted by Court Expert Mario Mifsud, only after the case against the other co-accused is finally determined , unless the Attorney General informs this Court within fifteen days from today that said drugs are also to be preserved for the purposes of other criminal proceedings against other third parties and, for this purpose, the Deputy Registrar should enter a minute in the records of this case reporting to this Court the destruction of said drugs.

< Final Judgement >

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