



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

**MAGISTRATE DR.  
JACQUELINE PADOVANI**

Sitting of the 13 th July, 2006

Number. 258/2006

**POLICE  
INSPECTOR LOUISE CALLEJA  
VS  
HUGH GLASS**

The Court,

Having seen the charges brought against the accused Hugh Glass, 49 years, son of late John and Margaret nee' Johnston, born Ballymena, North Ireland, U.K, on the 24<sup>th</sup> August 1956, and residing at omissis, and holder of British Passport No. 034216221, and charge him with having, in December 2005 and in the preceding months, at omissis, or/and in any other localities on these Islands, by several acts committed by him, even if at different times, which constitute violations of the same provision of the law, committed in pursuance of the same design, by lewd acts defiled minors omissis of omissis years and omissis of omissis years, which offence was committed on persons who had not completed the age of twelve years, and

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committed when he was temporarily charged with the control or custody of the said minors.

Having heard the evidence tendered on oath;

Having seen the record of the proceedings;

Having heard the plea of guilt (at page 85) entered by the accused;

Having heard the confirmation of the plea of guilt entered by the accused Hugh Glass on 19<sup>th</sup> May 2006, after the Court accorded a reasonable time for the accused to reconsider his plea;

Having seen the articles of law (at page 91) upon which this Court may pronounce guilt;

Having seen the note in the records of the proceedings (at page 92) wherein the accused registered no objection in being adjudicated by the Court of Magistrates;

Having heard the oral submissions of the parties;

Considers:-

The record of the proceedings shows that the minor omissis (see page 30 et seq), a friend of the minor omissis, are neighbours and attend the same school. The minor omissis informed the Court that the accused took the minor omissis and omissis for a meal at Armier, after which omissis and omissis wanted to wash their hands, and were accompanied to the bathroom by the accused. Thereupon, the accused instructed omissis to put his pants down. After this, the accused touched the genitals of the minor, and then instructed the minor omissis to effect the acts she had just seen on the minor omissis.

The minor omissis, in her testimony, told the Court that she felt obliged to touch omissis's genitals because she was afraid. After the meal, the accused Hugh Glass took the two minors to the cinema, where during the

intermission, omissis wanted to go to the bathroom. There again, the accused Hugh Glass instructed omissis to touch the minor's genitals as he had instructed her earlier on. Omissis stated that since Hugh Glass did not accompany them to the bathroom, she in fact did not touch omissis a second time.

This evidence was corroborated by the evidence of the minor omissis. Furthermore, omissis said that the accused had been a friend of his family for a considerable number of years, and that he (the minor) was sometimes invited to the accused's house, and on two occasions, the accused had touched the minor's genitals. The minor omissis told the Court in his evidence that whenever he slept overnight at the accused's house, the accused Hugh Glass instructed him to sleep naked. He confirmed also that on these occasions, the accused would also be naked.

Furthermore, on these occasions, the minor confirmed that they would sleep in the same bed. The minor confirmed that apart from this, nothing else happened. The minor affirmed that the accused would buy him presents and would give him presents practically every weekend. He also paid for extra curriculum private lessons.

Considers:-

The Court has noted that the accused pleaded guilty to all charges brought against him, and confirmed his plea, after he had been given a reasonable time within which to reconsider. The Court therefore, has to examine whether the acts practiced by the accused on the persons of the minor children were in fact lewd acts in terms of law.

Indeed, in the judgment *The Police vs Thomas Wiffen*, decided by the Court of Criminal Appeal on the 8<sup>th</sup> January 1996:

*'For the completed offence and apart from the formal element of the offence, there must be the lewd act (atto di*

*libidine) and the actual defilement. The lewd act may be committed either on the person or in the presence of the minor. All acts which, either by their very nature or of the circumstances in which they are performed, either are directed to the indulgence of the sexual appetite, either of the agent or of the victim, and are capable of arousing sexual interest of the victim, are lewd acts for the purposes of the offence in question.'*

The duration of these acts is immaterial for the notion of a lewd act (ibid at page 150 Volume LXXX 1996 part 4):

*'For the subsistence of the crime, it is not necessary that the defilement shall be immediate. The very young age of the person with whom the lewd acts have been committed does not rule out the crime if the remembrance of such acts is calculated to cause a defilement. **Indeed, according to our Law, if the victim is under twelve years of age, that is, a reason for aggravating the crime.'** (notes on the Criminal Law per Sir Anthony Mamo at page 226).*

The Court, after taking into consideration all circumstances of the case, finds that all the essential elements of the crime contemplated under Article 203 of the Criminal Code that is, the age of the victim, the lewd acts and the actual defilement of the minor in question, have indeed concurred.

On the strength of his own admission, the Court finds the accused guilty as charged, and after having seen Articles 18 and 203(1)(a)(c), condemns the accused to a term of imprisonment of three years. This period of imprisonment is being awarded after the Court has taken into consideration all the circumstances of the case, including the fact that the accused pleaded guilty, the fact that the lewd acts with which the accused stands charge, are inherently grave but not the most heinous in these category of acts.

The Court is denying the request of the accused for the ban of the publication of his name, on grounds of his own

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personal security and out of due consideration to the minor children, because the circumstances of the case do not involve a familial relationship between the abuser and the victim, through which the identity of the child may be discovered.

However, the Court orders a ban on the publication of the accused's residential address as well as all particulars relating to the minor children.

Moreover, the Court is recommending the Director of the Correctional Facilities of Kordin to ensure the personal security of the accused, and therefore, orders a copy of this judgment be served to the Director above mentioned.

**< Final Judgement >**

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