



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

**MAGISTRATE DR.  
JACQUELINE PADOVANI**

Sitting of the 25<sup>th</sup> November, 2009

Number 1268/2009

POLICE  
INSPECTOR IAN JOSEPH ABDILLA  
VS  
ADAMOU ABOUBAKAR  
UFUOMA FRANK EZEKIEL

The Court,

Having seen the charges brought against the accused Adamou Aboubakar, 28 years, nationality Cameroon, son of Adamou Habou and Khagja nee' Pelin, born in Essieng Boh (Cameroon), on the 16<sup>th</sup> June 1980, and residing in 37, Avenue De Frais Vallon Bat C, Chez Mle Osagiede Grace, 13013 Marseille (France). Holder of Cameroon Passport bearing number 766203. Ufuoma Frank Ezekiel, 33 years, nationality Nigerian, son of Ezekiel and Jeri nee' Ukolo, born in Delta State (Nigeria), on the 15<sup>th</sup> February 1975, and residing in Rocco Priora 17, Falconara

Marittima, Ancona (Italy). Holder of Nigerian Passport bearing number A3376357A

A. and charge them with having, on these Islands, on the 22<sup>nd</sup> January 2009 and in the preceding days, for having, in Malta conspired with one or more persons in Malta or outside Malta for the purpose of committing any crime (fraud) in Malta liable to the punishment of imprisonment, not being a crime in Malta under the Press Act;

(This in breach of Section 18 and 48A of Chapter 9 of the Laws of Malta)

B. furthermore, the accused Ufuoma Frank Ezekiel is alone being charged with having, on these Islands, on the 22<sup>nd</sup> January 2009 and in the preceding days, with having committed any other kind of forgery, or knowingly made use of any other forged document;

(This in breach of Section 18 and 189 of Chapter 9 of the Laws of Malta)

Furthermore, the accused Adamou Aboubakar is alone being charged with having, on these Islands, on the 22<sup>nd</sup> January 2009 and in the preceding days;

C. with having, knowingly made use of any of the false acts, writings, instruments or documents mentioned in Article 184 of Chapter 9 of the Laws of Malta;

(This in breach of Section 184 of Chapter 9 of the Laws of Malta)

D. also, with having committed any other kind of forgery, or knowingly made use of any other forged document;

(This in breach of Section 189 of Chapter 9 of the Laws of Malta)

E. also, with having forged, altered or tempered with one (1) passport or used or had in his possession a passport which he knew to be forged, altered or tampered with, being passport in the name of Adamou Aboubakar bearing numbers 766203 and 758546.

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(This in breach of Section 5 of Chapter 61 of the Laws of Malta)

The Court is also hereby kindly requested that in case of finding of guilt of the accused, apart from inflicting the punishment prescribed at Law, also orders the forfeiture of all the objects exhibited in these proceedings.

The Court is also hereby kindly requested that, in pronouncing judgment or in any subsequent order, sentence the person/s convicted, jointly or severally, to the payment, wholly or in part, to the Registrar, of the costs incurred in connection with the employment in the proceedings of any expert or referee, within such period and in such amount as shall be determined in the judgment or order, as per Section 533 of Chapter 9 of the Laws of Malta.

After exhibiting the Passports of the accused Adamou Aboubakar and Ofuoma Frank Ezekiel, it is requested that his case be investigated according to Law.

Having seen the record of the proceedings;

Having seen the request for the separation of the proceedings and the decree of the Court upholding the same of the 29<sup>th</sup> of October 2009;

Having seen the Articles of Law listed by the Attorney General (fol. 287 and 288) under which this Court may find the accused guilty or otherwise;

Having seen the judgment of this Court with regards to the accused Adamou Aboubakar of the 29<sup>th</sup> of October 2009;

Having seen the note in the record of the proceedings wherein the accused Ufuoma Frank Ezekiel found no objection to being adjudicated by this Court (vide page 279 and 280);

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Having heard the registration of a pleas of guilty with regard of charge D;

Having heard the confirmation of the guilty plea to charge D by the accused Ufuoma Frank Ezekiel after the Court accorded him a reasonable time for reconsideration;

Having heard the oral submissions of the parties;

Considers:

From the evidence proffered by Prosecuting Officer Inspector Ian J. Abdilla, during a search affected on the two accused at the arrival round at the Malta International Airport, the Police discovered that the luggage of the co-accused Aboubakar Adamou, contained a large quantity of black notes. The Police immediately suspected that these black notes could be used in what is notoriously known as the black money scan. Inspector Ian J. Abdilla confirmed that the two accused arrived in Malta on board the flight number KM 627 from Milano.

The luggage containing the black notes was exhibited as the exhibit Dok.IA

Apart from the black notes there were a small number of printed black notes, simulating currency, i.e. two (2) black notes of a hundred US Dollar denomination, two (2) black notes of a five hundred Euro denomination and two (2) black notes of a one hundred Euro denomination (vide Dok.IAW). Prosecuting Officer exhibited nine (9) bottles together with one (1) syringe. Prosecuting Officer Inspector Ian J. Abdilla exhibited three (3) cards i.e. a Nigerian driving license of the accused Ufuoma Frank Ezekiel, one (1) Visa Card belonging to Addie Morgan and a diplomatic Identity Card of the Republic of Ghana in the name of Dr. William Ani on which card there was a photo of Ufuoma Frank Ezekiel. The mobile phones of the accused were also exhibited. Inspector Ian J. Abdilla also exhibited a pen drive exhibited as Dok.IAP

Inspector Ian J. Abdilla informed the Court (at page 20) that the accused Ufuoma Frank Ezekiel immediately admitted with the Police that Ghanaian diplomatic Identity Card was a forgery which he effected himself and that the Visa Card had been left by a friend of his in his house and that he kept it because:

“It looked good in his wallet.” (vide page 20)

Ufuoma Frank Ezekiel denied anything in connection with the black money scan, stating that he was asked by Oboubakar Adamou to come over to Malta for the filming of a music video. He stated that he lived in Ancona, Italy (vide statement Dok.IAN at page 39 to 41).

Police Inspector Ian J. Abdilla stated that with regards to the printed black money, no charges regarding counterfeit money were brought against the accused as this type of printed currency does not classify as counterfeit currency and this in accordance with European Central Bank Regulations.

In cross examination, Inspector Ian J. Abdilla confirmed that the accused Ufuoma Frank Ezekiel did not admit his involvement in conspiracy regarding the black money scan and that there were no other allegations made by third parties made in this connection.

The accused, Aboubakar Adamou, admitted to all charges brought against him and judgment was passed on the 29<sup>th</sup> October 2009.

Court Expert Martin Bajada (at page 51) exhibited Dok.MB1 and Dok.MB2. In Dok.MB2 (at pages 176 to 197) Martin Bajada downloaded the contents of all mobile phones exhibited and the contents of materials contained in the pen drive which was found in possession of the accused Ufuomo Frank Ezekiel shows without a shadow of doubt the preparatory documentation which could be

used in the black money scan. The Court believes however that the above shows only evidence of preparatory acts and not acts of execution.

Deliberated:

The offence of conspiracy contemplated in terms of Article 48A(1) and (3) of Chapter 9 of the Laws of Malta which provides:

“Whosoever in Malta conspires with one or more persons in Malta or outside Malta...for the purpose of committing a crime in Malta, shall be liable to punishment of imprisonment...i.e. for the punishment for the completed offence object of the conspiracy with a decrease of two to three degrees.

Article 48A(2) of Chapter 9 of the Laws of Malta stated that:

“The conspiracy...shall subsist from the moment in which any mode of action whatsoever is planned and agreed upon between such persons.”

It is this Courts considered opinion that the Prosecution failed in regards to the accused Ufuomo Frank Ezekiel to prove the cardinal elements of the crime of conspiracy. Indeed the Prosecution failed to prove that there existed between the two accused, an agreed plan of action of any kind, and, although there are present a number of circumstantial and documentary evidence, this is not cogent enough to ground the charge of conspiracy. Furthermore the accused Ezekiel denied any involvement in his statement and the evidence of the co-accused Aboubakar Adamou, including his statement, does not constitute evidence with regard to the co-accused Ezekiel.

As regards to charge B brought against the accused Ufuomo Frank Ezekiel the Court took note of the guilty plea registered by the said Ezekiel and the confirmation of the same plea after the Court accorded him a reasonable time for reconsideration.

For these reasons the Court finds the accused, Ufuoma Frank Ezekiel, not guilty of charge A brought against him and acquits him of the same and finds him guilty of charge B and after having seen Article 189 of Chapter 9 of the Laws of Malta, condemns the accused to a period of imprisonment of four (4) months.

**< Final Judgement >**

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