



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

**MAGISTRATE
ANTONIO GIOVANNI VELLA**

Sitting of the 31 st May, 2011

Number 679/2011

**POLICE
INSPECTOR MARIO HABER**

VS

YOUSSEF SAJAW

The Court;

After seeing the charges brought against:

Youssef Sajaw, Gambian National, born in Basse, Gambja in 1991, son of Mohammed and Fatumatta Keita, holder of Police Number 07-P023;

For having between November and December 2008, as a person landing or embarking in or from Malta, failed to be in possession of a passport and failed to provide the Principal Immigration Officer the prescribed information

and such other information that the Principal Immigration Officer may deem proper to require;

Considers:

After having heard the evidence and the documents exhibited;

After having seen Articles 28 of Chapter 217 of the Laws of Malta;

After having seen the accused admit the charges brought against him, which admission was confirmed by him after having been given due time to reconsider in accordance with the law;

Considers further:

The accused has admitted to the charges brought against him. This case is one of a series of many cases that the courts are being faced with on a regular basis. A number of irregular immigrants who find themselves in Malta are trying to leave the country without the proper documentation, and this for reasons that are well known to everyone. The Court understands and sympathises with the accused and other individuals who find themselves in this dire situation, but it can never justify or condone any unlawful entry into or exit from a country. Border control regulations must necessarily always be upheld and safeguarded, for they are the only tools in the hands of the authorities that allow the free movement of persons within a framework of national sovereignty and mutual respect between states. If this system is not effective, there may be very serious consequences with regard to the general safety of the citizens and nationals of any country. Border control must ensure that no unlawful entry be allowed. In the same way, no unlawful exit may be permitted, for the irregular exit from one country will necessarily translate itself into the irregular entry into another.

This notwithstanding, the Court is fully aware that the accused was seeking to survive and to improve his chances in life, and for this reason it does not think that an effective prison term would be a fit punishment. Indeed, in spite of a number of judgements where such persons committing these and similar offences have been condemned to effective prison sentences, these have not served as a deterrent for other persons not to commit such offences, for the simple reason that the despair that pushes people to break the law is stronger than any deterrent we may imagine. On the other hand, the Court must still explain and declare that these offences are very serious and cannot be tolerated. The accused appears to be a first-time offender, and may thus benefit from a suspended prison sentence, on the clear understanding that this is his only chance to avoid being sent to prison, in the hope that he may learn from this mistake and take the opportunity to regularise his position and improve his status in life.

Now, therefore, for these reasons;

After having heard the accused's plea and after having given the time prescribed by Law for the accused to consider his plea, this Court finds the said accused guilty as charged, and condemns him to a term of three (3) months imprisonment suspended for one (1) year, in accordance with the provisions of Article 28A Chapter 9 of the Law of Malta.

The Court explained in clear words the terms of the judgement to the accused.

< Final Judgement >

-----END-----