



CRIMINAL COURT

**THE HON. MR. JUSTICE
MICHAEL MALLIA**

Sitting of the 17 th June, 2013

Number 2/2011

Bill of Indictment number 2/2011

The Republic of Malta

VS

Nicolas Gabriel King Jimenez
[holder of Panamanian Passport no. 1518485]

Today, the 17th June, 2013

The Court,

Having seen the bill of indictment number 2/2011 whereby the Attorney General in the name of the Republic of Malta declared that:

1. After the Attorney General premised in the First Count of the Bill of Indictment that on the twenty sixth (26th) day of May of the year two thousand and nine (2009) and during the previous days NICOLAS GABRIEL

KING JIMENEZ decided to start dealing, offering, supplying and exporting drugs illegally into the Maltese Islands in agreement with others.

In fact on the dates abovementioned, the accused NICOLAS GABRIEL KING JIMENEZ conspired and agreed with another person, a certain Jorge, to illegally deal in and export into the Maltese Islands a quantity of the drug cocaine (2045.5 grams). NICOLAS GABRIEL KING JIMENEZ agreed with Jorge also about the route (from Panama City to San Jose, from San Jose to Madrid, from Madrid to Brussels and from Brussels to Malta) and/or means of carrying the drugs (hidden in a false bottom of his luggage) and/or the means of transport (air travel) which was to be used in order for this quantity of drugs to be illegally brought and imported into Malta and this in order for the said drugs to be eventually dealt with illegally within the Maltese Islands. In execution of these pre-concerted plans NICOLAS GABRIEL KING JIMENEZ agreed to provide all the necessary assistance for this illegal activity to take place, which activity causes untold harm to Maltese society and an illegal financial gain to the accused, which financial gain was at the basis of this conspiracy.

In execution of these pre-concerted plans, before going to the airport in Panama City for his first of four air flights, NICOLAS GABRIEL KING JIMENEZ met Jorge and while there the accused agreed to carry the luggage filled with more than two kilograms (2 kg) of the drug cocaine.

On the 26th of May 2009, NICOLAS GABRIEL KING JIMENEZ boarded the Air Malta flight KM 421 leaving from Brussels, Belgium destination Malta, carrying these approximately two kilograms of the drug cocaine. On this date the accused arrived in the Maltese Islands carrying in his luggage a packet filled with the drug cocaine.

NICOLAS GABRIEL KING JIMENEZ was not authorized to be in possession of or import such dangerous drugs in terms of Law.

However before the accused managed to leave the Malta International Airport towards his destination in Malta he was stopped by the Customs Officers, who managed to intervene in due time before this amount of drugs managed to reach its intended final destination in the Maltese Islands to the respective consignee of the said drugs. The Customs Officers at the Malta International Airport affected a search in the luggage of the accused and found a packet filled with the drug cocaine and subsequently they decided to inform the Malta Police Force. Following further analysis it transpired that NICOLAS GABRIEL KING JIMENEZ was carrying in his luggage a packet filled with circa 2045.5 grams of the drug cocaine with its purity calculated at 43%, (as determined later by the Court appointed expert). This consignment of drugs was the subject matter of the abovementioned conspiracy. The total street value of this drug as determined by the Court appointed expert ranges from one hundred and thirty seven thousand and forty eight euro and five cents(€ 137,048.5) to two hundred and fourteen thousand and three hundred sixty eight euro and sixty four cents(€214, 368.64).

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

By committing the abovementioned acts with criminal intent, NICOLAS GABRIEL KING JIMENEZ rendered himself guilty of conspiracy to trafficking in the dangerous drug cocaine in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accused NICOLAS GABRIEL KING JIMENEZ of being guilty of having, on the twenty sixth(26th) day of May of the year two thousand and nine (2009) and during the previous days with criminal intent, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in drugs (cocaine) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance

(Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy, and 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 two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in articles 2, 9, 10(1), 12, 22(1)(a)(f)(1A)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

2. After the Attorney General premised in the Second Count of the Bill of Indictment that within and during the same context of place, time, facts and circumstances mentioned in the preceding count of this bill of indictment, that is to say on the twenty sixth (26th) day of May of the year two thousand and nine (2009) and during the previous days, NICOLAS GABRIEL KING JIMENEZ decided to export from Panama a quantity of the drug cocaine to be imported to the Maltese Islands.

While in Panama, NICOLAS GABRIEL KING JIMENEZ met a certain Jorge and agreed that this drug cocaine consignment was to be transported from Panama to Malta via San Jose, Madrid and Brussels by air transport. On the 25th of May 2009, before going to the airport in Panama City for the first of his four air flights, NICOLAS GABRIEL KING JIMENEZ met Jorge and while there the accused agreed to carry the luggage filled with more than two kilograms (2 kg) of the drug cocaine.

The accused on the 26th May 2009 boarded flight Air Malta KM 421 leaving from Brussels, Belgium destination Malta, carrying these approximately two kilograms of the drug cocaine in his luggage. On this date this flight arrived and landed in Malta. NICOLAS GABRIEL KING JIMENEZ was not authorized to import such dangerous drugs in terms of Law. The accused therefore managed to knowingly and illegally import in the Maltese Islands a packet containing the dangerous drug cocaine.

However before the accused managed to leave the Malta International Airport towards his destination in Malta he was stopped by the Customs Officers, who managed to intervene in due time before this amount of drugs managed to reach its intended final destination in the Maltese Islands to the respective consignee of the said drugs. The Customs Officers at the Malta International Airport affected a search in the luggage of the accused and found a packet filled with the drug cocaine and subsequently they decided to inform the Malta Police Force. Following further analysis it transpired that NICOLAS GABRIEL KING JIMENEZ was carrying in his luggage a packet filled with circa 2045.5 grams of the drug cocaine with its purity calculated at 43%, (as determined later by the Court appointed expert). The total street value of this drug as determined by the Court appointed expert ranges from one hundred and thirty seven thousand and forty eight euro and five cents(€ 137,048.5) to two hundred and fourteen thousand and three hundred sixty eight euro and sixty four cents(€214, 368.64).

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

By committing the abovementioned acts with criminal intent, NICOLAS GABRIEL KING JIMENEZ rendered himself guilty of importing or exporting, or cause to be imported or exported, or take any steps preparatory to importing or exporting, any dangerous drug (cocaine) into

or from Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accused NICOLAS GABRIEL KING JIMENEZ of being guilty of having, on the twenty sixth (26th) day of May of the year two thousand and nine (2009), with criminal intent, imported or exported, or cause to be imported or exported, or taken any steps preparatory to importing or exporting, any dangerous drug (cocaine) into or from Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, and 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 two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in articles 2, 9, 10(1), 12, 14, 15A, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

3. After the Attorney General premised in the Third Count of the Bill of Indictment that within and during the same context of place, time, facts and circumstances mentioned in the preceding counts of this bill of indictment, that is to say on the twenty sixth (26th) day of May of the year two thousand and nine (2009) and during the previous days, NICOLAS GABRIEL KING JIMENEZ agreed to export from Panama a quantity of the drug cocaine to be imported to the Maltese Islands. While in

Panama, NICOLAS GABRIEL KING JIMENEZ met a certain Jorge and agreed that this drug cocaine consignment was to be transported from Panama to Malta via San Jose, Madrid and Brussels by air transport. On the 25th May 2009, before going to the airport in Panama City for the first of four air flights, NICOLAS GABRIEL KING JIMENEZ met Jorge and while there the accused agreed to carry the luggage filled with more than two kilograms (2 kg) of the drug cocaine.

The accused on the 26th May 2009 boarded flight Air Malta KM 421 leaving from Brussels, Belgium destination Malta, carrying approximately two kilograms of the drug cocaine in his luggage. On this date this flight arrived and landed in Malta.

NICOLAS GABRIEL KING JIMENEZ was therefore knowingly and illegally in possession of two kilograms of the drug cocaine while in the Maltese Islands which drug was found under circumstances denoting that it was not intended for his personal use.

However before the accused managed to leave the Malta International Airport towards his destination in Malta he was stopped by the Customs Officers, who managed to intervene in due time before this amount of drugs managed to reach its intended final destination in the Maltese Islands to the respective consignee of the said drugs. The Customs Officers at the Malta International Airport affected a search in the luggage of the accused and found a packet filled with the drug cocaine and subsequently they decided to inform the Malta Police Force. Following further analysis it transpired that NICOLAS GABRIEL KING JIMENEZ was carrying in his luggage a packet filled with circa 2045.5 grams of the drug cocaine with its purity calculated at 43%, (as determined later by the Court appointed expert). The total street value of this drug as determined by the Court appointed expert ranges from one hundred and thirty seven thousand and forty eight euro and five cents(€ 137,048.5) to two hundred and fourteen thousand and

three hundred sixty eight euro and sixty four cents(€214, 368.64).

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

Consequently by committing the abovementioned acts with criminal intent, NICOLAS GABRIEL KING JIMENEZ rendered himself guilty of being in possession of a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations of the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his personal use.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accused NICOLAS GABRIEL KING JIMENEZ of being guilty of having, with criminal intent, of being in possession of a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was

not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his personal use, and 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 two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in articles 2, 9, 10(1), 12, 22(1)(a)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and of regulations 2, 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen all the records of the case, including those of the compilation of evidence before the Court of Magistrates (Malta) as a Court of Criminal Inquiry;

Having seen the joint application filed by the Attorney General and the accused on the 30th May, 2013, after declaring that they have reached an agreement in terms of article 453A(1) of the Criminal Code, humbly requested

this Court that, in the event that the accused admits to all the charges proffered against him in the bill of indictment number 2/2011, the punishment to be awarded should consist of a term of imprisonment of fourteen (14) years and six (6) months and the imposition of a fine of thirty thousand Euros (€30,000) together with the other sanctions and consequences that are mandatorily prescribed by law upon conviction in terms of the provisions of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, including the confiscation of any monies and movable and immovable properties of the accused.

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 proffered against him under the three 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;

Now therefore declares Nicolas Gabriel King Jimenez guilty of all three counts in the Bill of Indictment, namely of having:-

1. on the 26th May 2009 and during the previous days with criminal intent, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in drugs (cocaine) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy, and this according to the First Count of the Bill of Indictment;
2. on the 26th May 2009 with criminal intent, imported or exported, or cause to be imported or exported, or taken

any steps preparatory to importing or exporting, any dangerous drug (cocaine) into or from Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, and this according to the Second Count of the Bill of Indictment;

3. on the 26th May, 2009 with criminal intent, of being in possession of a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his personal use, and this according to the Third Count of the Bill of Indictment.

Having considered all the circumstances of the case, this Court is satisfied that the combination of sanctions and measures requested by the prosecution and the accused are those which it would have been lawful for it to impose upon conviction for the offences to which the accused has pleaded guilty and that it does not have cause to order the trial of the cause to be proceeded with or to reject said request for any other reason.

Having considered the guilty plea of the accused after the Court explained to him in clear terms the consequences of his request, now proceeds to pass the sentence indicated to it by the parties as foretasted.

Having seen articles 2, 9, 10(1), 12, 14, 15A, 22 (1) (a) (f) (1A) (1B) (2) (a) (i) (3A) (a) (b) (c) (d) (7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and of regulations 2, 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code.

Now therefore condemns the said Nicolas Gabriel King Jimenez to a term of imprisonment of fourteen (14) years, and six (6) months and to the payment of a fine (multa) of thirty thousand Euros (€30,000), which fine (multa) shall be converted into a further term of imprisonment of twelve months according to Law, in default of payment ;

Furthermore condemns him to pay the sum of One thousand, six hundred and eleven Euros and 41 cents (€1611.41) being the sum total of the expenses incurred in the appointment of court experts in this case in terms of Section 533 of Chapter 9 of the Laws of Malta;

Furthermore, orders the forfeiture in favor of the Government of Malta of all the property involved in the said crimes of which he has been found guilty and other moveable and immovable property belonging to the said Nicolas Gabriel King Jimenez.

And finally orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out by the Assistant Registrar, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

< Final Judgement >

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