



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

**MAGISTRATE DR.
MIRIAM HAYMAN**

Sitting of the 10 th December, 2013

Number. 1092/2012

**The Police
Inspector Dennis Theuma**

VS

**Mihaita Emil Grigoras, son of Iorgu and Daniela nee'
Mihaiela, born Galatai, Romania on the 14th February,
1982, residing at Sanchez Barcaistequi, No 14,
Madrid, Spain, holder of Romanian ID GL548660;**

The Court;

Having seen charges brought against the above-mentioned **Mihaita Emil Grigoras**, who was charged of having, on these Islands, on the 21st of October, 2012 and in the preceding weeks:

Conspired with another one or more persons on these Islands, or outside Malta, for the purpose of selling or

dealing on these Islands the dangerous drugs (cocaine) in breach of the Dangerous Drugs Ordinance Chap 101 of the Laws of Malta, or promoted, constituted, or financed such conspiracy for the importation of the dangerous drug (heroin) in breach of the Dangerous Drugs Ordinance Chap 101 of the Laws of Malta;

And also of having imported or caused to be imported, or took steps preparatory to import the dangerous drug (cocaine) in Malta, in breach of the Dangerous Drugs Ordinance Chap 101 of the Laws of Malta;

Also for having had in his possession the drugs (cocaine) 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 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 (GN 2/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drug was 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 (GN 292/1939), as subsequently amended by the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, which drug was found under the circumstances denoting that it was not for his personal use.

Seen that accused entered a guilty plea upon his examination (folio 14).

Seen the Order issued by Attorney General in terms of Article 22(2) of Chapter 101 of the Laws of Malta.

Seen also that at a later stage of the proceedings Attorney General also issued the relative Counter Order in terms of Article 31 of Chapter 101 of the Laws of Malta.

Seen evidence tendered by Inspector Dennis Theuma, regarding the fact that accused had been stopped at the Malta International Airport and duly stopped by various officers. He tendered evidence about the investigation in this regard. He deposed that Intel information was received that a certain Grigoras was coming to Malta as a drug mule. Customs Officers, as was reported to the witness by the same officials, effected a search on accused that gave negative results. PS 1086, PS 179, PC 10 were given instructions to follow closely the movements of accused.

He testified that the Inquiring Magistrate issued an eventual search warrant to be carried out in the Hotel Plevma. He testified that though the search was proved in the negative, it was noted that a particular smell was in the hotel room occupied by accused. However, at that point in time, no capsules or foreign bodies were either observed or found inside the room, or in the shaft or in any adjoining premises. He testified that he was still taken to Police Headquarters where after being given all the cautions ex lege, he released a written declaration which he signed. He also consented to being scanned/x-rayed at Mater Dei in order to establish the presence or lack of foreign bodies. Inspector Theuma at this stage testified that Mr Grigoras was still denying his involvement in any drug trafficking.

It later resulted however, through Mater Dei x-rays, that accused had swallowed a number of foreign bodies. At this stage, the Inspector was informed that Grigoras was ready to co-operate with the police in terms of Article 30B of Chapter 101 of the Laws of Malta. The Inquiring Magistrate was, according to Inspector Theuma, immediately informed about this development and an Inquiry ensued. As authorized by the same Magistrate, Mr Grigoras co-operated with and spoke to the Investigating Officers in order to try and identify the person or persons linked with international drug deal. A controlled delivery was thus effected.

Mr Theuma further testified that Mr Grigoras had passed about twenty-five(25) capsules containing white substance.

He further testified and pointed to the Court that following information handed out by the accused (still then being investigated),a controlled delivery was attempted, which however failed.

Accused also released a statement after being duly cautioned and given the right to legal assistance, which he refused, as testified by PC 253 Pier Guido Saliba.

Inspector Theuma thus exhibited the said statement (a folio 5). In it the accused admitted to understanding English, notwithstanding that during the sitting he requested an interpreter in the Romanian language – Alina Stivala. He explained that though he had visited Malta before, it was his first visit as a drug courier. He came from Madrid. He said he needed money for his sick mother, afflicted with chest cancer. He said he ended without money in Spain and that he met a certain Romanian national – Adrian, in the streets of Madrid and he offered him work by swallowing pills - capsules filled with drugs, and take them to Malta. He said he would receive seven hundred Euros (€700) for this. He further stated that he accepted since he needed money for his sick mother.

He pointed out to Adrian's mobile number on his cellular phone. He was to receive further instructions via phone from Adrian once he had excreted the capsules in Malta. Furthermore he was then to deliver the drugs to someone outside the Plevma Hotel and receive seven hundred Euros (€700).

He said he swallowed the capsules in thirty (30) minutes in Adrian's apartment, drinking Coca Cola, this after drinking a drink prepared for him by this Adrian. He added that Adrian had paid for the flights and booked him in for two days at the Plevma Hotel. He confirmed that the name Adrix on his mobile phone book corresponded to

this Adrian, whilst Joffri was Adrian's friend who had checked on him by phone once he had already checked in the hotel.

He stated he did not know what type of drugs were in the capsules, neither was he told.

Thus, both Mario Mifsud and Anthony Cutajar, Customs Officials, deposed about having stopped accused at the airport in view that during the luggage search he was acting unconvincingly. Though the search they effected resulted in the negative, they referred him to the drug police.

PC 279 Kevin Gauci testified that after having taken the accused to Mater Dei, there he excreted first sixteen (16) capsules, later another nine(9) capsules, thus twenty-five (25) in total. These were handed over the Scene of the Crime Officers (SOCO).

PC 923 Pier Guido Saliba also testified about the excretion by accused of the twenty-five (25) capsules. He added that he proceeded, upon Inspector Theuma's instructions, to incise one of the capsules, releasing a white substance from inside.

Photos were presented by the appositely appointed PC 1184 Grech of the drugs found, Dok PG folio 58.

Dr Martin Bajada, presented his report Dok MB, folio 66, wherein the names Adrix and Joffri and communication made between them and the accused transpires. With regards to this report, translations of various text messages were conducted by Imelda Fede (Spanish) and Alina Stivala (Romanian), of those found in accused's mobile with regards to the above-premised communications.

From his part, Mr Alphonse Cauchi, representing Air Malta plc, presented the flight information Munich – Malta, on which accused travelled, Dok AC folio 101.

Pharmacist Mario Mifsud concluded with regards to the drugs examined:

a. *“The brown substance contained in three capsules, two in exhibit 032/13/01 and one in exhibit 032/13/01, having total net weight of 26.05grams, w.ere found to be Caffeine. The substance caffeine, which is xanthine stimulant is not a scheduled substance under Maltese Law;*

b. *The white substance contained in twenty-two capsules, fourteen in exhibit 032/13/01 and eight in exhibit 032/13/02, having a total net weight of 211.21 grams were found to contain the substance Cocaine. The mean purity of the white coloured powder for the substance cocaine was found to be circa 22.7%. The substance cocaine is scheduled under Part 1 of the First Schedule of Chapter 101 of the Laws of Malta;*

c. *According to the Malta Drug Report 2008 – 2010, the retail price of the Cocaine found in the white substance in twenty-two capsules, which were in exhibit 032/13/01 and 032/13/02 respectively, and weighing totally 211.21 grams was circa €16,897.”*

It was SOCO PS 186 Kristian Mintoff, who handed the twenty-five(25) capsules to Pharmacist Mario Mifsud for their analysis.

PC 1086 Johann Micallef testified that following a negative search on the accused at the Malta International Airport, he was followed to the Hotel where he checked in Room 103.

Upon obtaining a warrant from the Inquiring Magistrate, they effected a search in the said room. Nothing illegal was found therein. He said that though later he assisted in a three-day long controlled delivery, nothing came out of it. This was also testified by PC 10 Trevor Cassar Mallia.

On her part, Marisa Attard Montalto, as the Plevna Hotel manager, testified about the check-in of the accused in the Plevna Hotel on the 21st October, 2012, exhibiting in this respect the Hotel’s arrival list, Dok MAM folio 134.

Informal Copy of Judgement

Considers that once the Counter Order was issued by the Attorney General as premised, accused never forwarded any evidence in defense, declaring he had none.

Heard oral submissions.

Considers:

That besides the early admission entered by the accused at the early stage of the examination, the Court has not difficulty to find accused guilty as charged, having examined his statement and the witnesses – police officers as above surmised, following his excretion at Mater Dei Hospital of twenty-five (25) capsules, containing according to Pharmacist Mifsud the drug cocaine, this after having seen 4th Part of the Medical and Kindred Ordinance Chap 101 of the Laws of Malta, 22(1)(f), 22(1A), 22(1B), 22(2)(b), Chapter 101 of the Laws of Malta;

With regards to the punishment to be effected condemns the accused Mihaita Emil Grigoras to the effective term of imprisonment of 3 and a half years(3½) and to the fine of five thousand Euros(€5,000), this after considering the amount of cocaine carried by him – 211.21 grams, and its value - €16,897 and the damage that such amount infiltrates in our society.

Seen also Section 533 of Chapter 9 of the Laws of Malta, and condemns to the payment of all expert expenses incurred to the amount of €1,496.83.

< Final Judgement >

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