



MALTA

COURT OF MAGISTRATES
(GHAWDEX) AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR.
NEVILLE CAMILLERI

Sitting of the 18 th June, 2014

Number. 10/2014

The Police
(Inspector Bernard Charles Spiteri)

vs.

Stephen Paul Durward

Number: 10/2014

Today 18th of June 2014

The Court,

Having seen the charges brought against **Stephen Paul Durward**, holder of Identity Card Number 326407(L), aged forty five (45) years, son of Kenneth and Mary neé Lightfoot, born in Germany, on the 4th June 1968 and resides at 'Ortensia Court', Flat 1, Hotba Street, Qala, Gozo or Blokk A, Flat 1, Marsalforn Road, Zebbug, Gozo, charged with having on the 28th January 2014, at around 7.15 a.m. whilst he was at the parking area in Marsalforn, limits of Zebbug, Gozo and in the vicinity:

1. assaulted or resisted by violence or active force, PS 1407 Frank Portelli, PS 1233 John Attard, PC 534 Joseph Cini, PC 1571 Mario Azzopardi, PC 707 Robert Hili and PC 1097 Mario Casha persons lawfully charged with a public duty when in the execution of the law or of lawful order, issued by a competent authority in breach of Article 96 of Chapter 9 of the Laws of Malta;
2. on the same date, time, place and circumstances reviled, threatened or caused bodily harm to PS 1407 Frank Portelli, PS 1233 John Attard, PC 534 Joseph Cini, PC 1571 Mario Azzopardi, PC 707 Robert Hili and PC 1097 Mario Casha, persons charged with a public duty, while in the act of discharging their duty or because of them having discharged such duty, or with intent to intimidate or unduly influence them in the discharge of such duty, in breach of Article 95 of Chapter 9 of the Laws of Malta;
3. on the same date, time, place and circumstances, without the intent to kill or put the life in manifest jeopardy caused slight injuries on the persons of PS 1233 John Attard and PC 534 Joseph Cini;
4. on the same date, time, place and circumstances disobeyed the lawful order of any authority or of any person

entrusted with a public service, or hindered or obstructed such person in the exercise of their duties, or duly interfered with the exercise of such duties, either by preventing other persons from doing what they are lawfully enjoined or allowed to do, or frustrating or undoing what has been lawfully done by other persons, or in any other manner whatsoever, in breach of Article 338(ee) of Chapter 9 of the Laws of Malta;

5. on the same date, time, place and circumstances willfully disturbed the public order and peace in breach of Article 338(dd) of Chapter 9 of the Laws of Malta;
6. on the same date, time, place and circumstances he kept two dogs of over than four months old without a licence;
7. on the same date, time, place and circumstances had two dogs under his control and allowed same dogs to stray and when they were taken out in a street, they were kept without leash;
8. on the same date, time, place and circumstances as an owner of a dog which is dangerous to persons, he failed to keep the dog under his control, a dog which has bitten and assaulted PS 1233 John Attard and caused slight injuries as certified by Dr. J. Galea M.D;
9. on the 28th January 2014 at around 10.30 a.m. whilst he was at Cathedral Square, Victoria, Gozo, assaulted or resisted by violence or active force PC 534 Joseph Cini, PC 1571 Mario Azzopardi, PC 1513 Mario Grech, PC 958 Joseph Agius and PC 1097 Mario Casha persons lawfully charged with a public duty when in the execution of the law or of lawful order, issued by a competent authority in breach of Article 96 of Chapter 9 of the Laws of Malta;
10. on the same date, time, place and circumstances disobeyed the lawful order of any authority or of any person entrusted with a public service, or hindered or obstructed such person in the exercise of their duties, or duly

interfered with the exercise of such duties, either by preventing other persons from doing what they are lawfully enjoined or allowed to do, or frustrating or undoing what has been lawfully done by other persons, or in any other manner whatsoever, in breach of Article 338(ee) of Chapter 9 of the Laws of Malta.

The Court was requested, where it deems expedient, in order to provide for the safety of police officers involved for the keeping of the public peace, in addition to, or in lieu of the punishment applicable to the offence, require the offender to enter into his own recognisance in a sum of money to be fixed by the Court.

Having seen the documents exhibited and all the acts of the proceedings.

Having seen the Articles of Law sent by the Attorney General on the 21st. April 2014 (*a fol. 66*):

- (a) Sections 17, 31, 533 of the Criminal Code (Chapter 9 of the Laws of Malta);
- (b) Section 96(a) of the Criminal Code (Chapter 9 of the Laws of Malta);
- (c) Section 95(1) of the Criminal Code (Chapter 9 of the Laws of Malta);
- (d) Sections 214, 221(1), 222(1)(c) of the Criminal Code (Chapter 9 of the Laws of Malta);
- (e) Section 338(ee) of the Criminal Code (Chapter 9 of the Laws of Malta);
- (f) Section 338(dd) of the Criminal Code (Chapter 9 of the Laws of Malta);
- (g) Sections 3, 17 of the Dogs Act (Chapter 312) of the Laws of Malta;
- (h) Regulations 3(1), 7(1)(b) of Subsidiary Legislation 312.01 (under Chapter 312 of the Laws of Malta); and

- (i) Section 14 of the Dogs Act (Chapter 312) of the Laws of Malta.

Having seen that, during today's sitting, the Articles of Law sent by the Attorney General on the 21st. April 2014 (*a fol.* 66) were read out, during which sitting the accused declared that he does not object for his case to be tried and decided summarily.

Having heard on a number of occasions, including during today's sitting, the accused plead guilty to all the charges brought against him, notwithstanding the fact that the Court in terms of Section 453(1) of Chapter 9 of the Laws of Malta warned him in the most solemn manner of the legal consequences of his guilty plea after having given him sufficient time within which to reconsider and withdraw his guilty plea.

Having heard the witnesses brought forward by the Prosecution.

Having heard oral submissions by the Prosecution and by the defence.

Considers

That, as a consequence of the admission by the accused of the charges brought against him, the charges brought against the accused have been sufficiently proven.

With regards to the punishment to be inflicted against the accused, the Court will be taking into consideration various factors, including: the nature of the charges brought against the accused, his guilty plea, and his conviction sheet.

Therefore, the Court, after having seen the Articles of Law sent by the Attorney General on the 21st. April 2014 (*a fol.* 66), mainly Sections 95(1), 96(a), 214, 221(1), 222(1)(c), 338(dd) and 338(ee) of Chapter 9 of the Laws of Malta, Sections 3 and 14 of Chapter 312 of the Laws of Malta and Regulation 3(1) of Subsidiary Legislation 312.01 of the Laws of Malta, finds the accused Stephen Paul Durward guilty of all the charges brought against him and condemns him to a period of eight (8) months imprisonment however, since the Court is of the opinion that there are sufficient reasons which warrant that the said term of imprisonment be suspended, in terms of Section 28A of Chapter 9 of the Laws of Malta, suspends the said term of eight (8) months imprisonment for a period of two (2) years from date of this judgment.

In terms of Section 28A(4) of Chapter 9 of the Laws of Malta the Court has explained to the accused in plain language his liability under Section 28B of Chapter 9 of the Laws of Malta if during the operational period he commits an offence punishable with imprisonment.

The Court, after having seen what is provided for under Section 14(1) of Chapter 312 of the Laws of Malta and after having heard that the dog which is made reference to in these

proceedings cannot be considered as being dangerous, refrains from ordering the Police to destroy the mentioned dog.

As per Article 533 of Chapter 9 of the Laws of Malta, the Court orders the person convicted to pay within a month from today the costs incurred in connection with the employment in these proceedings of any expert or referee, which costs amount to one hundred Euro (€ 100.00).

Finally, after having seen Section 383 of Chapter 9 of the Laws of Malta, the Court binds the accused to hold the peace with PS 1407 Frank Portelli, PS 1233 John Attard, PC 534 Joseph Cini, PC 1571 Mario Azzopardi, PC 707 Robert Hili and PC 1097 Mario Casha under a penalty of one thousand Euro (€ 1000) for a period of one year from today.

< Final Judgement >

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