



MALTA

COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR.
CAROL PERALTA

Sitting of the 19 th November, 2014

Number. 649/2012

THE POLICE
INSPECTOR JURGEN VELLA

VS

JONATHAN CRAIG HOOLEY

The Court:

Having seen the accusations brought against the accused Jonathan Craig Hooley, holder of Identity Card Number 41969A.

Accused that:

On the 10th of May, 2012 at about half past noon (12:30hrs) at Corradino Street, Paola, caused injuries of grievous nature, on the person of Malcolm-James Gilford from Zurrieq, of permanent debility of the health or any permanent functional defect in any part of the physical structure of the body.

Also charged of having wilfully disturbed public peace and the public order at the same place, time and circumstances.

The Court is kindly requested, in order to provide for the safety of Malcolm-James Gilford or 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 recognizance in a sum of money to be fixed by the Court.

The Court:

Read the documents and accusations;

Heard the evidence produced under oath;

After having seen Articles 214, 215, 218 (1) (a) (b) (2), 338 (dd), 383, 384, 385, 386, 17, 31, 533 of Chapter 9 of the Laws of Malta.

After having seen the consent of the Attorney General dated 1st of October, 2013;

Considers:

The case relates to an incident which occurred on the 10th of May, 2012, at Corradino, MCAST where a group of friends were celebrating the accused's birthday by playing a prank on him. This consisted of smashing an egg on the accused's back. The injured party, Malcolm James joined the others in, jokingly, assaulting the accused by smashing eggs on the accused's back, him being the last to do so.

The victim, Malcolm James, was not, exactly, a close friend of the accused as were the other boys who were playing a prank on him and he was never considered to be a part of their group. Moreover, there seems to have been bad blood between the two so when James smashed the last egg in his hand and attempted to plaster it on the accused's body, the accused lashed out and punched the victim in the

eye as a consequence of which punch the victim suffered and is still suffering from a permanent injury because of impaired vision in one eye as diagnosed and testified by Dr. Azzopardi from the ophthalmology unit.

Defence Counsel takes pains to point out that Hooley has never denied punching Malcolm James in the eye. However, he conditions his admission by qualifying the accused's act as product of the accused's fear of the victim after taking into consideration the previous uncomfortableness between the two and the offence felt by the accused that, even though not a close friend of his and because of the bad blood between the two, felt that James should not be joking with him in this way.

The accused is also adamant in saying that, at the time, he had warned Malcolm James not to egg him and thus he did so severely.

All the other youngsters who were present throughout the incident and also who saw what exactly happened concur with the version of the accused that only one punch was thrown by him against the victim.

Having taken all this into consideration and after the Court, having, minutely, examined all the dynamics of the incident the Court has arrived at the following conclusions;

1. That the injuries suffered by Malcolm James as a direct result and consequence of the incident are of a grievous and permanent nature and this in terms of Article 218 of Chapter 9 of the Laws of Malta. The medical evidence brought forward by the Prosecution leaves no doubt about this;
2. That the injury suffered by Malcolm James was, directly, caused by Jonathan Craig Hooley during the after mentioned incident. This result through the accused's voluntary admission as well as the testimony of all those present that were heard *viva voce* in this Court.
3. That with hindsight the accused has shown a degree of maturity by admitting that what he did was quite stupid who, caught in the excitement of the moment and not particularly liking his last tormenter because both of previous bad blood and because he was not a regular and trusted member of their normal group and

because of this, being alarmed by Jones's actions at the time, thought that, after squashing the raw egg in his hand, thought that the same Jones was going to hit him in the face with the egg in his hand. His immediate reaction was to ward off the blow by the stranger and non-friend by punching him in the face or his approach.

This Court comments that whilst this may seem a natural reaction to a situation of the sort and whilst it can also take into consideration the uneasiness that the accused felt in the presence of Malcolm Jones with hindsight, the accused comments that, "I think this was quite stupid".

That for those reasons the Court is prepared to accept the defences' argument that this may be a case of excessive self-defence even though the accused must have realized at the time that this is a prank which youngsters are prone to commit on one or another. However, the Court is prepared to accept that at the time, the accused must have been over anxious because he did not consider Jones to be a good friend, in fact, an intruder to the fun being had by him and his close friends of the time due consideration also being had to the strained feelings between the two.

The Court observes also the following factors:

1. The clean conduct sheet of the accused;
2. The young age on the date of commission of the offence.

The Court orders that the accused, Jonathan Craig Hooley, is placed under a Community Service Order for a period of forty (40) hours of community work. This is a one and off offence and the Court feels that a probation order is not to be administered as the accused does not seem to require monitoring.

Also, the Court conditionally discharges the accused for a period of three (3) years in terms of Article 22 of Chapter 446 of the Laws of Malta.

The Court explained the consequences of the judgement to the accused.

< Final Judgement >

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