

IN THE MAGISTRATES COURT FOR THE DISTRICT OF THE CITY OF CAPE TOWN
HELD AT CAPE TOWN

In the matter between

Case No: **25/116/2024**

THE STATE

And

KYLE VAN NIEKERK

THE ACCUSED

PLEA AND SENTENCE AGREEMENT IN TERMS OF SECTION 105A OF ACT 51 OF 1977 BETWEEN THE STATE AND THE ACCUSED

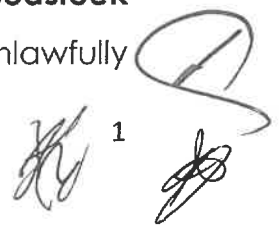
A PREAMBLE

WHEREAS,

1. The accused is charged with:

1. **Contravening the provisions of Section 8(4) read with sections 1,2(1) and 2A (3) of the Animal Protection Act, Act No 71 of 1962 and further read with section 1 of the Adjustment of Fines Act, Act No 101 of 1991**

IN THAT on or about **6 March 2024** and at or near **No 8 Wright Street, Woodstock** in the District of the City of Cape Town, the accused did unlawfully


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,intentionally and wilfully **obstruct and/or hinder an officer of the Society for the Prevention of Cruelty to Animals (SPCA)** to wit **Chief Inspector Jaco Pieterse** **concealed an animal to wit a female dog and it's 7 puppies** with the intent to defeat the exercise of the said officer's powers.

2. Contravening the provisions of Section 3(1) read with sections 1 and 35 (1)(d) of the ANIMAL KEEPING BY-LAW 2021, of the City of Cape Town and further read with section 1 of the Adjustment of Fines Act, Act No 101 of 1991

IN THAT on or about **6 March 2024** and at or near **No 8 Wright Street, Woodstock** in the District of the City of Cape Town, the accused did unlawfully and intentionally **keep two dogs over the age of 6 months unsterilized without a permit to keep the animals unsterilized and for breeding being obtained from the City of Cape Town**

2. The Senior Public Prosecutor Mr DA Jacobs, has been duly authorized in writing by the National Director of Public Prosecutions, as required by section 105A of Act 51 of 1977, to negotiate and enter into an agreement with the accused.
3. The Senior Public Prosecutor Mr DA Jacobs, is duly authorized to conduct proceedings in court on behalf of the State in connection with this agreement after it has been duly entered into.
4. The Senior Public Prosécutor Mr DA Jacobs and the accused, who is represented by Mr A Vink have negotiated and entered into the agreement in respect of a plea of guilty by the accused to the offences of which he may be convicted as well as a sentence to be imposed by this Honourable Court;



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5. The accused has been informed of his rights referred to in section 105 A (2)(a) (i-iii) of Act 51 of 1977:
- (a) To be presumed innocent until proven guilty beyond reasonable doubt;
 - (b) To remain silent and not to testify during the proceedings;
 - (c) Not to be compelled to give self-incriminating evidence; and
 - (d) That he is not obliged to enter into this agreement, but that if he does enter into this agreement, the contents thereof will be made known to the Court which may convict and sentence him in terms of the agreement or may refuse to accept the agreement, in which case the agreement will be null and void and the State will not be able to use or present such agreement against him as evidence in a criminal trial before another Court;
6. The Senior Public Prosecutor Mr DA Jacobs has duly complied with the requirements of section 105 A (1)(b) of Act 51 of 1977.
- (a) The investigating officer has been consulted. S/he is satisfied with the terms of the agreement, including the sentence;
 - (b) Due regard has been had to the circumstances prescribed in section 105A (b)(ii) of Act 51 of 1977.
7. The accused represented and assisted by his above-mentioned legal representative admits guilt to the charge of Theft as set out in the charge sheet and pleads guilty thereto on the basis set out below.

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8. The Senior Public Prosecutor Mr DA Jacobs is prepared to accept such plea of guilty to the abovementioned charges.

NOW THEREFORE Senior Public Prosecutor Mr DA Jacobs and the accused who is represented herein by Mr A Vink have negotiated and reached the following agreement with the following terms in respect of a plea of guilty by the accused as well as a just and fair sentence to be imposed by this Honourable Court.

B PLEA OF GUILTY AND ADMISSIONS

9. The accused pleads guilty to the charge and makes the following admissions;

9.1 I understand the charge against me as set out in the charge sheet and freely and voluntarily and without any influence pleads guilty thereto;

9.2 I admit the following facts with respect to the charge as set out in the charge sheet and which is referred to in paragraph 1 above, and:

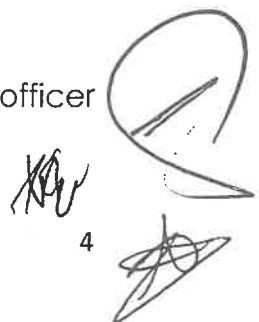
9.2.1 My identity in the matter.

9.2.2 That the abovementioned Court has the necessary jurisdiction to entertain this matter.

9.2.3 That I had in my possession an adult female dog and seven of its puppies;

9.2.4 That the adult female dog was older than 6 months;

9.2.5 That I concealed the dogs from Chief-Inspector Jaco Pieterse an officer of the SPCA;



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9.2.6 That through my concealment of the animals I intended to prevent Chief Inspector Jaco Pieterse from exercising his powers to confiscate the animals;

9.2.7 I admit that I knew, at all material times, that my conduct was wrongful and unlawful, and that I could be arrested and punished by a Court of Law.

In respect of count 2, I make the following admissions

9.2.8 My identity in the matter;

9.2.9 That the abovementioned Court has the necessary jurisdiction to entertain this matter;

9.2.10 That I had kept 2 adult female dogs who both were older than 6 months;

9.2.11 That neither of these dogs were sterilized as required by the Animal Keeping By-Law, 2021 of the City of Cape Town;

9.2.12 That I did not obtain a permit from the City of Cape Town to have these dogs sterilized;

9.2.13 I admit that I knew, at all material times, that my conduct was wrongful and unlawful, and that I could be arrested and punished by a Court of Law.

A handwritten signature in black ink, consisting of a large, stylized capital 'A' followed by a smaller capital 'P' and a final flourish.

The Facts

9.2.14 On the abovementioned date at approximately 21:00, at 8 Wright Street, Woodstock, I was in possession of several dogs, including a female dog and her puppies. I was keeping the dogs as pets at the time.

9.2.15 I wilfully and intentionally concealed the female dog and her puppies from Chief Inspector of the SPCA. I did so with full knowledge that my actions were in contravention of the by-laws of the City of Cape Town, which prohibit breeding with unsterilized dogs over the age of 6-months without a valid permit.

9.2.16 I admit that my actions were unlawful and wrongful, and I fully accept responsibility for concealing the animals in an attempt to avoid detection and legal consequences.

9.2.17 I acknowledge that I acted intentionally and that my conduct was in violation of the laws regulating animal keeping.

9.2.18 I was subsequently arrested.

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NOW THEREFORE the accused admits that he is guilty as charged and prays that he be convicted accordingly.

C SUBSTANTIAL AND OTHER RELEVANT FACTORS

1. The seriousness and gravity of the offence, the interest of the community and the personal circumstances of the accused have duly been considered and taken into account by both parties.

2. THE AGGRAVATING FACTORS ARE AS FOLLOWS:

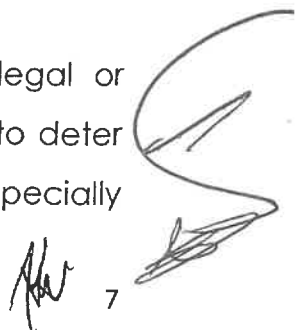
10.1 The accused intentionally concealed the animals from the Inspector, demonstrating a clear awareness of wrongdoing and an effort to obstruct justice and evade accountability.

10.2 The two adult dogs were being used for breeding purposes, suggesting a profit motive. Exploiting animals for commercial purposes while failing to meet their welfare needs shows aggravated neglect and disregard for their wellbeing.

10.3 The breeding operation implies a sustained and ongoing act of cruelty, rather than a once-off lapse in care. Continued exposure to harmful conditions increases the gravity of the offence.

10.4 Obstructing the Inspector's efforts instead of cooperating and taking steps to correct the situation demonstrates a lack of remorse and an unwillingness to take responsibility.

10.5 Given the public outcry and increasing concern around illegal or unethical backyard breeding practices, a strong stance is needed to deter others. The court must consider the message sent to the public, especially when cruelty is hidden behind breeding operations.;



10.6 The offence is prevalent in this court's jurisdiction.

3. THE MITIGATING FACTORS ARE AS FOLLOWS:

11.1 The Accused is 37 years of age.

11.2 The accused is unmarried and has one child aged 14 years old.

11.3 The accused is self-employed and works in the construction industry with and earns an average of R3 000 per month.

11.4 The accused's highest level of education is grade 10.

11.5 The accused has shown remorse for his actions by entering a plea of guilty in respect of this agreement, saving the State the time and the cost of running a protracted trial.

D. AGREEMENT IN RESPECT OF A JUST SENTENCE

The parties agree that the following is a just sentence in the circumstances

SENTENCE:

AD Count 1:

The accused is sentenced to a fine of R 3 000(Three Thousand) or 30 (Thirty)days imprisonment which is wholly suspended for a period of 5(Five) years on condition that the accused is not convicted of contravening the provisions of section 8(4) of Act 71 Of 1962 committed within the period of suspension.

AD Count 2



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The accused is sentenced to undergo a period of 12(Twelve) months imprisonment which is wholly suspended for a period of 5(Five) years on condition that the accused is not convicted of contravening the provisions of section 3(1) of the Animal Keeping By-Law,2021, of the City of Cape Town committed within the period of suspension.

ADDITIONAL ORDERS BY COURT

In terms of section 3(1)(d) of Act 71 of 1962 the accused is ordered to immediately forfeit any animals in his possession and deliver or cause to be delivered to the Cape of Good Hope SPCA within 48 hours of the pronouncement of this sentence unless they are sterilized as per the requirements of section 3 of the Animal Keeping By-Law,2021 of the City of Cape Town

DATED and SIGNED AT CAPE TOWN THIS 3rd DAY OF JUNE 2025.



**KYLE VAN NIEKERK
ACCUSED**



**MR A VINK
LEGAL REPRESENTATIVE OF THE ACCUSED**



**MR DA JACOBS
SENIOR PUBLIC PROSECUTOR**