

IN THE REGIONAL COURT FOR THE DIVISION OF SOUTHERN TRANSVAAL

HELD AT GERMISTON

3 SH 823/07
Case Number:

In the matter between:

THE STATE

and

CLINTON RONALD NASSIF

Accused

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

INTRODUCTION

WHEREAS:

1. The prosecutor, Adv. G. Nel, authorised hereto in writing, and the Accused, who is legally represented by M du Toit (attorney), have negotiated and entered into a plea and sentence agreement (*"the agreement"*) contemplated in Section 105A(1) of the Criminal Procedure Act, 51 of 1977, as amended (*"the Act"*).

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2. Before entering into the agreement, the prosecutor has consulted with Mr Leask, who is the person in charge with the investigation of the case as contemplated in Section 105A(1)(b) of the Act. The signature of Mr Leask confirms the consultation;

INVESTIGATOR

3. Whereas the State has given due regard to the nature and circumstances relating to the offence, the circumstances that pertain to the Accused and the interest of the community.
4. Before entering into the agreement, the Accused was informed that he has the right:
 - 4.1 to be presumed innocent until proven guilty beyond reasonable doubt;
 - 4.2 to remain silent and not to testify during the proceedings; and
 - 4.3 not to be compelled to give self-incriminating evidence.

NOW THEREFORE IN THIS AGREEMENT THE ACCUSED SETS OUT THE TERMS OF THE AGREEMENT, THE SUBSTANTIAL FACTS OF THE MATTER AND ALL OTHER FACTS RELEVANT TO THE AGREED SENTENCE AS WELL AS ADMISSIONS MADE BY THE ACCUSED

THE TERMS OF THE AGREEMENT

The charge sheet and preamble thereto is annexed hereto, marked "A".

NOW THEREFORE, the Accused pleads guilty on the charge of contravening Section 5(b), read with Sections 13 and 17, and Schedule 2 Part III of the Drugs and Drug Trafficking Act, 140 of 1992 ("the Drug Act").

1.

1.1 The Accused understands the contents of the charge against him and wishes to plead guilty on the above charge on the basis of factual events as set out hereunder. The Accused was not improperly influenced to plead guilty and voluntarily pleads guilty.

1.2 The Accused admits the facts averred in the charge sheet and admits having committed the acts alleged to have been committed by him referred to in the charge sheet.

1.3 Having regard to the above, the Accused proceeds to deal with the charge.

2. **AD THE CHARGE:**

- 2.1 The Accused met Steve Papparas ("*Papparas*") in 1999. Papparas was introduced to the Accused by Gary Mazaham ("*Mazaham*"). At that stage the Accused wanted to get into the security business and wanted to buy into a security company that was owned by Mazaham, Papparas and Bruce de Kock. That was the only occasion that the Accused ever saw, or spoke to, Papparas.
- 2.2 T-Bond was a company, which was started to assist Brett Keble to export mining equipment to a mine in Angola. Glenn Agliotti ("*Agliotti*"), Mauro Sabbatini ("*Sabbatini*") and the Accused would be the shareholders of the company.
- 2.3 The exporting never materialised. The Accused, Agliotti and Sabbatini decided to use the company for imports and exports.
- 2.4 Terence Martin ("*Martin*") was involved in the running of the company. Sabbatini was in charge of Martin.
- 2.5 The premises of T-Bond was guarded by Central National Security Group ("*CNSG*"), a security company that the Accused owned.

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- 2.6 Agliotti approached the accused during 2005 with a suggestion that they use T-Bond for storage of cigarettes. The Accused's understanding was that a friend of Agliotti's manufactured cigarettes in Zimbabwe and he needed to store the cigarettes which would be imported from Zimbabwe. The Accused knew it would not be legitimate cigarettes, because Agliotti told him that once the cigarettes were imported, he would arrange for falsified export documentation, showing that the cigarettes had been exported.
- 2.7 A while later the accused was phoned by Agliotti and informed that there was a shipment on its way to T-Bond. The Accused phoned Sabatini and informed him of the shipment coming in, He wanted the shipment to be stored in a secure location within the store.
- 2.8 The accused was informed that it was a shipment of stoves and not cigarettes. The accused phoned Agliotti and the latter informed him that the stoves contained Hashish (hash)
- 2.9 The first time the Accused became aware of "hash" in the stoves at T-Bond, was when Agliotti told him about it, as referred to hereunder. "Hash" is cannabis in terms of Schedule 2 Part III of the Drug Act and is an undesirable dependence-producing substance.

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- 2.10 The Accused called a meeting and met Agliotti at the M&A, Illovo, where only the two of them were present. Agliotti confirmed that there was "hash" in the stoves. The Accused told Agliotti that he did not want the "hash" in the T-Bond warehouse and that Agliotti must have it removed. Agliotti indicated that he would 'look after the accused' and requested his assistance in arranging for the hash to be moved.
- 2.11 The Accused spoke to someone, who agreed to help Agliotti move the "hash" out of T-Bond. The Accused telephoned Agliotti and told him about the person that was prepared to help him. Agliotti never reverted back to the accused and this person was not involved in the transportation of the hash.
- 2.12 During that time Agliotti telephoned the Accused and asked him to arrange for three persons to go into the T-Bond yard to inspect the shipment of stoves to ensure that all the stoves were there. The Accused phoned Sabbatini and asked him to arrange with Martin to allow the inspection, which he did.
- 2.13 At a later stage Agliotti telephoned the Accused and told him that he (Agliotti) needed a sample of the "hash" stored in the stoves at T-Bond and that the Accused must arrange that a sample be taken to the offices of CNSG, where Agliotti would collect it.

- 2.14 The Accused was keen for Agliotti to remove the "hash" from T-Bond and hoped that the delivery of the sample would be a means to speed-up the removal. The Accused instructed a certain Mahomed to fetch one of the stoves. All the stoves were stored in boxes. The Accused told Mahomed there was stuff in the stove and he must take it to CNSG, where Agliotti would collect it. The Accused asked Sabbatini to telephone Terence Martin and tell him to give one stove to Mahomed, which he did.
- 2.15 The following morning Agliotti arrived at CNSG and enquired about the sample. The Accused phoned Mahomed and asked him to bring a sample of the stuff (which was "hash"). The Accused walked with Agliotti to the car park, where Mahomed came over and put the sample in the boot of Agliotti's car. Agliotti then left. The Accused told Mahomed that he could keep the stove and the balance of the "hash" in the stove. Agliotti telephoned the Accused about two weeks later, asking for the balance of the "hash" which was in the stove, to which the Accused replied that he had given it to Mahomed.
- 2.16 Some time later, Agliotti gave the Accused £8 000, which Agliotti said was for his trouble and storage costs. This amount constitutes a benefit of proceeds of crime and must be forfeited.

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2.17 A couple of months later (\pm 2 to 3 months) Agliotti asked the Accused to accompany him to Sandton Square (now known as Mandela Square) to meet a person who owed him money for what the Accused assumed was drugs. If the Accused recalls correctly, it was between £100 000,00 and £200 000,00 or maybe even more, which Agliotti said was owing to him. Agliotti asked the Accused to pretend that it was his (the Accused's) shipment and that the Accused wanted his money. The Accused realised he was physically far more imposing than Agliotti and agreed to play along. When they met with the said person, the Accused confronted him about the payment. The name of the person was Daniel and he was from the United Kingdom. Daniel promised payment in a week or two. The Accused had met Daniel before when he was in London with Agliotti. The Accused knew Agliotti was using him as his protection and that was the reason why the Accused did not mind to assist Agliotti in collecting his money.

2.18 In July 2006, the Accused met Agliotti in Los Angeles, where he (Agliotti) told the Accused that Pappas' father had been bust with the "hash" (being the same "hash" contained in this shipment of stoves) and that the drugs belonged to Pappas.

3. Having regard to the aforesaid, the Accused admits that:

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- 3.1 during 2005 and in Isando, within the jurisdiction of this Honourable Court, the Accused performed an act in connection with the collection of the "hash" as envisaged in the definition of "deal in", in terms of the Drugs and Drug Trafficking Act, 140 of 1992 ("the Drug Act");
- 3.2 "hash" is cannabis and falls within Part 3 of Schedule 2 of the Drug Act and is an undesirable dependence-producing substance;
- 3.3 he knew it was wrong to act, as aforesaid, in connection with the drugs;
- 3.4 he knew he had no right or permission to act in connection with the drugs as aforesaid.

THE SUBSTANTIAL FACTS OF THE MATTER

4. The substantial facts of the matter are dealt with in the charge and in paragraph 3 above.

FACTORS RELEVANT TO SENTENCE

5. **Personal circumstances of the Accused:**

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- 5.1 The Accused is 39 years of age and resides at 22 Soetdoring, Hennle Alberts Street, Meyersdal.
 - 5.2 The Accused is divorced.
 - 5.3 The Accused is the father of two children, respectively 11 and 3 years old.
 - 5.4 The Accused is provisionally sequestrated and does not earn an income.
 - 5.5 The Accused consents to the payment of the £8 000 (eight thousand pounds) proceeds of crime benefit received herein into the Criminal Asset Recovery Account, as referred to in the forfeiture clause hereinlater.
6. It is recorded that the State and the representatives of the Accused have had extensive negotiations and discussions with regard to the charge against the Accused and have considered the following factors:
- 6.1 the length of the trial should the Accused plead not guilty. By pleading guilty, the Accused drastically curtailed criminal proceedings. Had the Accused not pleaded guilty, the trial could have run for at least three months;

- 6.2 the expense to which the State would be put by such a trial, which would be a lengthy one;
- 6.3 the burden of the prosecution and the Court of being engaged in such a lengthy trial;
- 6.4 the nature and extent of the involvement of the Accused in the offence and, more particularly, the fact that:
 - 6.4.1 the Accused was not the importer, exporter or distributor of the drugs and will forfeit all the proceeds from his involvement in the crime;
 - 6.4.2 the Accused is guilty of the offence by virtue of the wide definition of "*deal in*" in the Drug Act; and
 - 6.4.3 the assistance rendered by the Accused to Agliotti was limited and prompted by a situation enforced upon the Accused by virtue of a longstanding friendship, and the fact that the drugs were stored at T-Bond and the Accused did not want the drugs to be at T-Bond;

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6.5 the Accused is fully co-operating with the Directorate of Special Operations and other related Authorities in this matter and in many other criminal investigations and rendering full assistance to the Authorities, including having fully dealt with contradictory versions put to him and will continue to render such assistance, which is in the interest of society and law enforcement agencies. The Accused is willing to give evidence in this matter, as well as all other criminal matters

6.6 the accused is willing to expose this syndicate that used South Africa as a spring board to import and export large volumes of drugs and other contraband.

6.7 the interest the State has in securing a conviction on the charge laid against the Accused, that interest having a number of purposes which are:

6.7.1 the interest of securing a conviction against the Accused of the crime which he has committed;

6.7.2 the interest to demonstrate to the community that such contravention will be detected and prosecuted;

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6.7.3 the effect that a conviction will have on the Accused and, more particularly, by virtue of his limited involvement in the commission of the offence.

7. The parties agree, subject to the finding of this honourable court that the factors refer to above constitute compelling and substantial circumstances not to impose the prescribed minimum sentence.

NOW THEREFORE the parties have agreed in terms of Section 105A of the Criminal Procedure Act, 51 of 1977, that an appropriate sentence in respect of the count to which the Accused has tendered a plea of guilty in terms of Section 105A, would be the following:

AD SENTENCE

The Accused is sentenced to ten (10) years imprisonment, wholly suspended for five (5) years on condition that the Accused is not convicted of any offence in dealing in drugs in terms of the Drugs and Drug Trafficking Act, 140 of 1992, for

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which a sentence of direct imprisonment is imposed, committed during the period of suspension and that the accused will testify frankly and honestly in the matter of S v Paparas and others, case no *S 847.00/06*

FIREARMS

The court finds that the Accused is not unfit to possess a firearm.

FORFEITURE

In terms of Section 18 of the Prevention of Organised Crime Act, 121 of 1998 (as amended), and by consent between the parties, it is ordered that the benefit of £8 000 (eight thousand pounds) received by the Accused at the relevant exchange rate as at 9 October 2007, be forfeited and paid into the Criminal Asset Recovery Account. The payment will be made within six months of the rehabilitation of the Accused.

DATED AT _____ ON THIS THE _____ DAY OF OCTOBER 2007.

ON BEHALF OF THE PROSECUTING AUTHORITY

ADV. G. NEL