

**IN THE SOUTH GAUTENG HIGH COURT**  
**(JOHANNESBURG)**

Case No: 252/2012

In the matter between:

**THE STATE**

versus

**REINECKE, LEOPOLD DIRK**

**ACCUSED 6**

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**AGREEMENT IN TERMS OF SECTION 105A OF ACT 51 OF 1977**

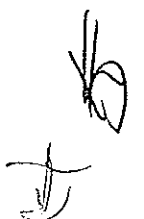
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**A. INTRODUCTION**

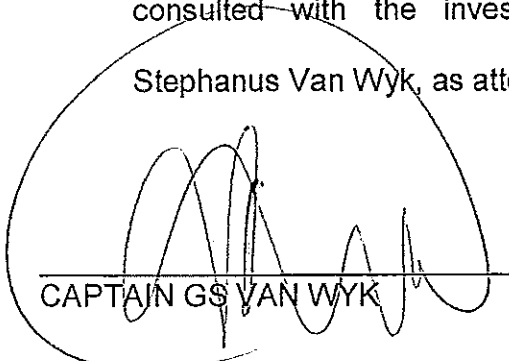
1. WHEREAS the accused has been informed, in terms of Section 105A (2)(a), that he has the right to:



- 1.1 Be presumed innocent until proven guilty beyond reasonable doubt;
  - 1.2 Remain silent and not to testify during the proceedings; and
  - 1.3 Not to be compelled to give self-incriminating evidence.
2. WHEREAS the Deputy Director of Public Prosecutions, Advocate HJ Broodryk SC, has been duly authorised in writing by the National Director of Public Prosecutions, as required by Section 105A(1)(a) of Act 51 of 1977, to negotiate and enter into a formal Plea and Sentence Agreement with the Accused. (A copy of the authorization is attached as per Annexure "A")
3. The Accused, who is legally represented herein by Mr Karl Schuler from the firm of Schuler Heerschoop Pienaar Attorneys have negotiated and entered into this Plea and Sentence Agreement in respect of the offence which he may be convicted, as well as a just sentence for such offence to be imposed by the above Honourable Court.
4. WHEREAS the State has consulted, in terms of Section 105A (1)(b)(ii), with the police official, Captain GS van Wyk charged with the investigation of this case, in respect of the terms of the Plea and Sentence Agreement and he is satisfied with the terms thereof including the proposed sentence.

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5. WHEREAS the State has consulted with the family of the deceased, Thandiwe Betty Ketani and afforded them the opportunity to make representations, in terms of Section 105A (1)(b)(iii).
6. The accused freely and voluntarily, whilst being in his sound and sober senses pleads guilty to the Kidnapping of Thandiwe Betty Ketani, referred to in count 3 of the indictment.
7. The Deputy Director of Public Prosecutions is prepared to accept the plea of guilty as aforementioned
8. AND WHEREAS the prosecution before entering into the said agreement consulted with the investigating officer, to wit Captain Gerhardus Stephanus Van Wyk, as attested by his signature.



CAPTAIN GS VAN WYK

9. AND WHEREAS an opportunity was granted to the family of the deceased to wit, the brother of the deceased, Mr. Mankinki Eric KULA, to make representations pertaining to the content of the agreement. The brother of the deceased, Mr. KULA, agrees with the terms of the plea and sentence agreement, as attested to by his signature

  
MANKINKI ERIC KULA

10. NOW THEREFORE in this agreement the parties hereto set out the terms of the agreement, the substantial facts of the matter and all other facts relevant to the agreed sentence as well as certain admissions made by the accused.

**B. THE TERMS OF THE AGREEMENT**

**AD CHARGES**

11. The State will require the Accused to plead guilty as follows:

Count 3: Guilty to the offence of Kidnapping

The charges in respect of the remaining counts are to be withdrawn.



12. The Accused has made a full and frank disclosure pertaining to his involvement in the matter. The Accused has provided the State with a full and detailed affidavit pertaining to his and other person's involvement in the kidnapping of the deceased. The Accused will provide his co-operation as a witness in the trial that will follow,

**C. THE SUBSTANTIAL FACTS OF THE MATTER**

13. The Accused admits the truthfulness and correctness of the averments in the charge as well as the substantial facts.
14. The Accused knows and understands the charges and agrees to plead guilty.
15. The Accused admits that he freely and voluntarily entered into the agreement, whilst in his sound and sober senses and without having been influenced thereto by anyone and has at all relevant times been assisted by his legal representative.
16. The Accused confirms that the prosecution has evidence to implicate him in the said crime.

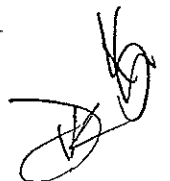


17. That the accused admits that he has been made aware of the provisions of Section 105 A of the Criminal Procedure Act, 51 of 1977 and he is aware that this agreement is not binding on the Court;
18. The charge in respect of which the accused pleads guilty is count 3. It reads as follows:

"IN THAT on or about the period May 1999, and at or near Rosebank in the district of Johannesburg, the accused unlawfully and intentionally deprived Thandiwe Betty Ketani of her freedom of movement"

That the remaining charges, would be withdrawn against the Accused.

19. During May 1999 to June 1999, the accused was employed by C&C Commercial Services, a company specialising in private investigations, on a part time basis.
20. This company was operated by Carrington Laughton (hereinafter referred to as 'Laughton'). Laughton was introduced to Monique by the accused with the purpose of investigating the theft of money at Cranks, a restaurant situated in Rosebank.
21. At the time of the investigations Monique Lemkes (hereinafter referred to as 'Monique'), the daughter of Eric Lemkes, acted as manager at Cranks, and assisted Laughton in the investigation.



22. Carrington and Monique also became involved in a personal relationship during the course of the investigation. Carrington arranged accommodation for Monique at room 002 at the Sandton Park Hotel.
23. One of the Cranks employees being investigated was Tandiwe Betty Ketani (hereinafter referred to as Betty).
24. During the course of May 1999, Carrington informed the accused that they were going to pick up one of the Crank's employees for questioning, and that the accused should assist to ensure that she co-operate. Carrington collected the accused from his house in Houghton.
25. Thereafter, they drove to Cranks Restaurant. Carrington entered the restaurant whilst the accused waited in the car. Carrington returned with Monique and Betty. This was at approximately 22h00.
26. Betty was taken to the hotel room where Monique was staying, and she was questioned by both Monique and Carrington regarding the theft of money at Cranks.
27. Betty became extremely distraught with the questions and allegations, and demanded to be taken home.
28. Carrington refused and stated that she will remain there until she provides answers.
29. When she attempted to leave, Carrington instructed the accused to prevent her from doing so, which he then did.

30. At the time when the accused so prevented her from leaving the room, he was aware that he was unlawfully depriving her of her freedom of movement.
31. After Monique and Carrington questioned her for approximately an hour, it became apparent that she would not admit to being involved in the theft at Cranks. The accused informed Carrington that Betty had nothing to do with it, and he must let her go.
32. Monique informed Betty that the guilty parties would eventually be found and that if Betty received any subsequent information about the theft, she should immediately come forward with it.
33. Betty thereafter insisted that she be taken home to her residence in Hillbrow as it was close to midnight at that stage. Carrington refused and Betty was dropped off at Cranks in Rosebank, whereafter she returned home. The accused was then also dropped off near his home.
34. Approximately one week later, the accused returned to Cranks where he saw Betty. They did not speak to each other.
35. When the accused committed the aforesaid offence he was of his sound and sober senses and aware that he was committing an offence.





D. THE FACTS RELEVANT TO THE AGREED SENTENCE

36. The accused is an adult male aged 40 years.
37. He is a South African citizen born in Johannesburg, and has been living in Johannesburg his entire life.
38. He has been married to Patricia Reinecke for 7 years.
39. He is currently employed at the Big 5 Duty Free Shop at Lanseria Airport as a Manager, and earns R 5000.00 per month.
40. The accused is a first offender.
41. The accused showed remorse, and pleaded guilty.
42. The case is more than 14 years old, and material witnesses are no longer available to testify.
43. The accused has given an undertaking that he will provide a witness statement as required by the State, and testify in the criminal trial against his co-accused.
44. The accused assisted his employer out of a misplaced sense of duty, and is truly remorseful for his actions.




E. THE AGGRAVATING CIRCUMSTANCES

45. This is a serious offence.
46. The accused acted in concert with Laughton and Monique.
47. The accused remained silent regarding this incident as well as the involvement of Laughton and Monique with Betty Ketani until after his arrest in this case.

F. THE AGREED SENTENCE

48. It is agreed that the State and the representatives of the accused and the deceased's representative had extensive negotiations and discussions with regard to the charge and have considered the following factors:
  49. The length of the trial, should the accused plead not guilty.
  50. The elaborate factual evidence that would have to be led by the State.
  51. The expense to which the State would be put by such a trial, which would be a lengthy one, and in which several experts would have to testify.
  52. The burden of the prosecution and to the court in being engaged in such a complex trial.



abovementioned charge, that interest having a number of purposes which are;

53.4 The interest of the State in securing a conviction on the charge because of the seriousness of the crime;

53.5 The effect that both the fact of the conviction of this crime and the sentence that flows therefrom will have on the community as a whole;

53.6 The interest that the victims of the offence have, which interest is shared by the public at large in the securing of a conviction on the charge against the accused as well as the securing of an appropriate sentence.

54. Attached hereto as Annexure "B" a report prepared by a Probation Officer/Social Worker, Annette Vergeer.

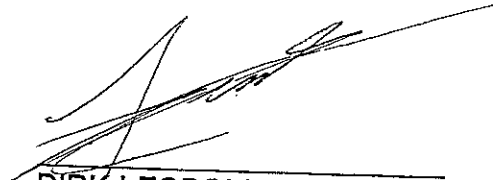
55. **NOW THEREFORE** the parties have agreed in terms of section 105A of the Criminal Procedure Act that an appropriate sentence in respect of the accused on the charge of Kidnapping is;

The accused is sentenced to 3 years Correctional Supervision in terms of section 276 (1) (h) of the Criminal Procedure Act: on conditions as attached hereto in Annexure "C"


In addition the Accused is sentenced to a further term of five (5) years imprisonment suspended for five (5) years on the following conditions:

- (1) THAT he is not convicted of kidnapping committed during the period of suspension;
- (2) THAT he will testify frankly and honestly in respect of the matters referred to in his statement.

DATED at JOHANNESBURG on THIS the 17<sup>th</sup> DAY of JULY 2013.

  
\_\_\_\_\_  
DIRK LEOPOLD REINECKE  
Accused 6

  
\_\_\_\_\_  
KARL SCHULER  
Attorney for the accused

  
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H J BROODRYK SC  
Deputy Director of Public Prosecutions  
South Gauteng High Court  
Johannesburg

# **ANNEXURE "A"**



The National Prosecuting Authority of South Africa  
Izinyo zokwaziwele Lokwelisozisa: Bo Mzantsi Afrika  
Die Nasionale vervolgingsgesag van Suid-Afrika

**AUTHORISATION IN TERMS OF SECTION 105A (1)(a) OF CRIMINAL  
PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)**

I, Menzi Simelane, National Director of Public Prosecutions, in terms of Section 105A (1)(a) of the Criminal Procedure Act, 1977, hereby authorise HERMAN JACOBUS BROODRYK, SENIOR DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS to negotiate and to enter into plea and sentence agreements in respect of matters over which he has jurisdiction within the SOUTH GAUTENG HIGH COURT.

This authorisation is subject to the Policy Directives issued in terms of Section 105(A) (11) of the Criminal Procedure Act, 1977, read with Section 179(5)(b) of the Constitution.

GIVEN AT PRETORIA ON THIS THE 22<sup>nd</sup> DAY OF July 2010.

ADV. M. SIMELANE  
NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

