Republic of South Africa

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

HIGH COURT REF NO. : **11942**
CASE NO. : **SB26/11**
MAGISTRATE'S REF NO. : **01/11**

In the matter between:

THE STATE

vs

RIAAN SNYDERS	Accused no. 1
PAUL SOLLMANS	Accused no. 2
DUDLEY ROMEO DEUTCHEN	Accused no. 3

REVIEW JUDGMENT: 30 SEPTEMBER 2011

MOSES, AJ

Introduction.

[1] The matter came before this court for review in terms of the provisions of Section 304 (1) of the Criminal Procedure Act 51 of 1977. After having perused and studied the proceedings of the Riversdale Magistrate's Court, under Case Number SB26/2011, the magistrate presiding over the proceedings in that court was requested in a letter dated 15 September 2011 to address and reply to the under-mentioned issues as a matter of urgency.

"1. Gegewe die spesifieke feite van hierdie saak, word volledige redes verlang hoekom die landdros direkte gevangenisstraf (van drie (3) jaar ten opsigte van al die beskuldigdes) opgelê het?

2. Was die landdros gedagtig aan en/of vertroud met die toepaslike bepalings van Wet 75 van 2008 (The Child Justice Act No 75 of 2008). Indien wel, in watter mate het die landdros oorweging geskenk aan die vonnis opsies soos vervat in Hoofstuk 10 van die voormelde Wet? Blykens die rekord is al die beskuldigdes jeugdiges wat sedert hulle arrestasie in Februarie 2011, in hegtenis was, ten spyte van borg aansoeke.
3. Gegewe die feit dat korrektiewe toesig in terme van Artikel 276 (1) (h) van Wet 51 van 1977, as 'n gepaste strafsanksie ten opsigte van AL DRIE beskuldigdes aanbeveel was deur die proefbeampte sowel as die korrektiewe beamptes (behalwe in die geval van beskuldigde nommer 3, waarin 'n straf in terme van Artikel 276 (1) (i) van Wet 51 van 1977 aanbeveel was, maar die vonnis opsie van korrektiewe toesig nie uitgesluit was nie), op watter basis het die landdros hierdie aanbevelings verwerp?
4. Is enige strafsanksie in terme van Hoofstuk 10 van Wet 75 van 2008 van toepassing ten opsigte van die beskuldigdes in hierdie saak? Indien wel, wat stel die landdros voor ten opsigte van die implementering daarvan?
5. Sal die landdros asseblief op 'n uiters dringende basis 'n gevalle en prognose verslag bekom van Brandvlei Jeuggevangenis ten opsigte van beskuldigde 2, sedert sy opname tot op hede, en dit aanheg aan sy redes hierbo na verwys".

Background.

[2] The three accused were charged in the Stilbaai Magistrate's Court with housebreaking and theft in that on or between 31 January 2011 and 1 February 2011, they broke into the business premises – a shop of Lynette Cronje and stole there certain items, including cash, lighters, hunting knives, male socks, a backpacker liquor and bus tickets) to the total approximate value of R12 138,00. Only the hunting knife and lighters were retrieved, but not the bus tickets, socks, backpacker and liquor.

Accused no. 1, Riaan Snyders, was 18 years old at the time of committing this offence. He was arrested on 11 February 2011. Accused no. 2, Paul Sollmans, was 17 years old at the time of committing this offence, and was arrested on 14 February 2011. Accused no. 3, Dudley Romeo Deutchen, was 20 years old at the time of committing this offence. He was arrested on 25 February 2011.

[3] All three of them were legally represented by an attorney, Mr Nichols, after legal aid was granted to them. All of them remained in custody since their arrest, pursuant to an unsuccessful bail application on 18 March 2011.

[4] On 8 April 2011, all three of them, duly represented by Mr Nichols, pleaded guilty to the charge, but alleged that the value of the stolen goods amounted to R 6000.00. The state accepted the pleas as tendered, and all three of them were duly convicted on the basis of their pleas.

[5] The state proved the following previous convictions in respect of the accused, all of which were admitted by them:

Accused no. 1, (his SAP 69 was handed in and received as Exhibit E)

– Theft committed on 30 May 2010. He was sentenced on 22 October 2010 to R1000.00 or 6 months imprisonment, – which was totally suspended for 5 years, subject to certain conditions;

Accused no. 2, (whose SAP 69 was handed in and received as Exhibit F) – (1) Housebreaking and theft committed on 8 June 2008 in Stilbaai. (The SAP 69 lists four such offences repetitively and it is not clear whether those constitute four different and separate offences and previous convictions).

On 17 August 2008, his sentence was postponed in terms of Section 297 (1) (A) of Act 51 of 1977 for a period of 5 years and the accused was ordered to subject himself to the supervision and control of a probation officer for a period of one year;

(2) Housebreaking and theft committed on 16 October 2007, and in respect whereof he was convicted on 15 February 2008 and sentenced on 22 August 2008, as follows:

In terms of Section 297 (1) (A) I his sentence was postponed for 5 years on condition that the accused reports on 25 August 2008 at Eureka Youth Centre for training and counselling and remain there for the duration of his training until it is completed;

Accused no. 3, (whose SAP 69 was handed in and received as Exhibit G):

(1) Admission of Guilt Fine R150.00 apparently for

assault committed on7 November 2009, and which was paid at Stilbaai on 11 December 2009;

(2) Admission of Guilt Fine of R100.00 apparently for Contravening Section 4 (b) of Act 140 of 1992 (possession of unlawful and/or dangerous substance/drugs) committed on 11 September 2010. The fine was paid on 14 September 2010 at Riversdale; and

(3) Admission of Guilt Fine of R300.00, also for Contravening Section 4 (b) of Act 140 of 1992, committed on 4 July 2010 in Albertinia. The fine was paid in Albertinia on 16 September 2010.

[6] The matter was thereafter postponed to 15 April 2011. All three accused remained in custody, accused no. 2 was ordered to be kept in custody at the Mossel Bay Juvenile Section of the Prison.

[7] The matter resumed eventually on 24 June 2011 for the correctional officer's report and the probation officer's report in respect of all three the accused. These reports were uncontested, and received and admitted as evidence, marked in respect of accused no. 1, the correctional report, Exhibit H, the probation officer's report, Exhibit L; in respect of accused no. 2, Exhibit J and M respectively, and in respect of accused no. 3, Exhibit K and N respectively.

[8] Mr Nichols, on behalf of the defence, indicated to the court that all the accused had studied and worked through both reports, and admitted the contents

thereof as correct and that they agreed with the recommendations, except in respect of the correctional officer's report in respect of accused no. 3, on which he would address the court. In his address to the court in mitigation of sentence, he submitted that the role played by accused no. 2 was a minor role and that he (accused 2) was influenced by the other two accused. He (accused 2) also received little benefit from these stolen goods. He submitted that correctional supervision in terms of Section 276 (1) (h) of Act 51 of 1977 would be appropriate, and that accused no. 2 could be referred to an institution where he can get some training.

[9] Mr Nichols furthermore submitted: "My klient (referring to accused no. 2) wil nie eintlik graag na 'n gevangenis toe gaan nie edelagbare, dis hoekom die verdediging nou die opsies van instellings nou vir ander instellings genoem het".

[10] The reaction of the prosecutor was inaudible on the record, but there was seemingly no objections to the submissions and recommendations of Mr Nichols (on behalf of the accused) and/or the recommendations of the respective correctional official and probation officer in respect of all three the accused. The state led no evidence in rebuttal of these recommendations contained in these reports.

[11] The court then decided to postpone the matter until 8 July 2011 for the evidence of a social worker/probation officer, because the court was uncertain whether or not there was any institution which would accept accused no. 2 since he was 17 years old. The following appears from the record:

"Hof: Die probleem waarmee die hof te kampe is, dat geen instansie gaan

hom aanvaar omdat hy 17 jaar oud is nie. Geen van die instansies aanvaar 17-jariges nie."

And further:

"Veral met betrekking tot die, ek het nou uit ondervinding gesê dat die instellings neem nie 17-jarige nie; maar sy kan dit miskien net vir ons kom bevestig. Ek is nie oortuig daarvan nie."

[12] The probation officer (social worker) Ms Janine Bester, who subsequently testified on 8 July 2011, to address the magistrate's query and problem, is not the one who had compiled the report in respect of accused no. 2. She was called to address only that limited aspect, namely is/was there an institution which would be willing and able to accept and accommodate Paul Sollmans, accused no. 2. She testified that the only institution which offers compulsory school education and tuition to its juvenile inmates is, according to her knowledge, Brandvlei Prison (a correctional centre near Worcester, in the Western Cape). This institution, she said, would subject accused no. 2 to such tuition, but only until he reaches the age of 21 years, whereafter he will be transferred to the "bigger prison". A reformatory only accepts and accommodate juvenile offenders up to the age of 18 years, and would therefore not accept accused no. 2, "onder geen omstandighede." In the circumstances, so she opined, since the accused no. 2 would turn 18 years within two (2) weeks of 8 July 2011 – when she testified – "het ek gedink die beste opsie sal wees dat hy na 'n gevangenis gaan," which she identified and recommended as being Brandvlei to be suitable for accused no. 2 .

[13] What is abundantly clear from the magistrate's enquiries and query as

abovestated, was that at that stage, he had already made up his mind and was fixated on institutionalized punishment, namely imprisonment. This is also borne out by the subsequent testimony of Ms Bester, who clearly expressed her opinion as abovestated in this context, namely that imprisonment should be imposed. She expressed this opinion despite the recommendations and findings as contained in the other reports, Exhibits H-N, which recommendations and findings were all well grounded, pursuant to a thorough investigation by the officials concerned. Importantly, none of these recommendations and findings as contained in Exhibits H-N were disputed by either the State and/or the defence – it was admitted as uncontested evidence to the trial court. Ms Bester failed to deal with the contents of these reports, save to refer to the reports in respect of accused no. 2. She also failed to provide any reason or basis for her opinion of direct imprisonment in respect of accused no. 2, notwithstanding the well founded and informed recommendations in these reports. The magistrate subsequently sentenced all three accused to three (3) years direct imprisonment, accused no. 2 to serve his sentence at the "Brandvlei jeug gevangenis".

[14] What is of particular concern in these proceedings is that neither the magistrate, nor the said Ms Bester, and/or the prosecutor alluded to the provisions of the Child Justice Act 75 of 2008. That no regard was had to these provisions, is borne out by the magistrate's reference to "in die ou taal bekend.... as 'n verbeteringskool," and Ms Bester's total failure to draw the court's attention to these provisions and its possible applicability in the instant case. Ms Bester's ignorance in respect of the provisions of the Child Justice Act, 2008, is further borne out by her inability to point out to that court that a "verbeteringskool" has been replaced with a child and youth care centre, as referred to in the said Act. She also did not refer at all to any other or alternative

child and youth care centres, except Brandvlei, which she admitted was, according to her, a "jeugtronk" from what is understood to be a prison in the ordinary sense of the word, but for juveniles. What is clear however, is that this "jeugtronk" is no reference to any child and youth care centre, as contemplated in the Child Justice Act 75 of 2008.

[15] Dealing first with accused no. 2, Paul Sollmans, the subject matter of this review, the magistrate seemed to have treated him as a person with five previous convictions. The report from the correctional official in terms of Section 276 (1) A of the Criminal Procedure Act, dated 29 April 2011, Exhibit J, regarding accused no. 2, as well as the probation officer's report, in respect of him dated 24 June 2011, Exhibit M, only refer to two previous convictions. No evidence has been led in respect of these SAP69 records. The SAP 69 records of accused no. 2, Exhibit F, are not very clear and it was not clarified during the evidence or submissions in respect of sentence. It reflects that he was sentenced on two previous occasions by the Stilbaai Magistrate's Court. The first time was on 17 August 2007 when it was ordered that sentencing in respect of him be postponed for 5 years and he subject himself to the supervision and control of a probation officer for a period of one year. With regards to the offence(s) and the dates on which he was convicted, it only records four (4) references to "Huisbraak – met die opset om te steel en diefstal" with the date of conviction in respect of all four such references indicated as "2007-06-8". There is no indication when these four "Huisbrake" were committed. It is also not clear whether these four references to "Huisbrake" is indeed an indication that he was convicted of four separate charges of housebreaking and theft, and/or whether all of these had been committed on the same day or date. It is also not clear from the sentence, if indeed, it refers to and constitute four different counts of

housebreaking and theft, and whether or not these were taken together for purposes of sentence by that sentencing court.

[16] The second time that he was sentenced, also by the Stilbaai Magistrate's Court, seems to be on 22 August 2008. In this instance the record indicates that he was convicted on 15 February 2008 on a count of "Huisbraak – met die opset om te steel en diefstal" ostensibly committed on 16 October 2007. In this instance it was also ordered that the passing of sentence be postponed for five years on condition that he reports to Eureka Youth Education Centre on 25 August 2008 and to remain there for education and treatment until such training was completed. As indicated earlier, the facts and circumstances of these previous convictions are not altogether clear, since no evidence has been led in respect of the said SAP 69 record of accused no. 2. One can therefore understand the reference to two previous convictions by both the correctional official and the probation officer. On the record of these proceedings, the accused has only been sentenced by a court of law on two previous occasions, namely 17 August 2007, and 22 August 2008, on similar offences on which he was convicted and sentenced by the sentencing court as stated above.

[17] The magistrate replied to the above-stated queries in his letter dated and signed 21 September 2011. The prompt response is appreciated, especially given the gravity of the issues involved in this matter.

[18] The magistrate's answer to the first and third questions, namely, why he imposed direct imprisonment in respect of all three the accused, in spite of the recommendations by both the probation officer and the correctional official, of correctional supervision in respect of all three of them, was essentially as

follows. He thoroughly considered the personal circumstance of all three accused respectively as placed before him by their legal representative and the reports of the correctional official and the probation officer. He took into account in particular, that all of the accused were "relatief jonk" (relatively young) at the time of the commission of this offence. As pointed out above and in terms of the evidence on record, accused 1 was 18 years old, accused 2, 17 years old and accused 3, 20 years old at the time. He further took into account, so he says, the fact that accused 1 had one relevant previous conviction, (that is, theft committed on 30 May 2010 for which he was sentenced to R1000.00 or six months totally suspended for five years on certain conditions on 22 October 2010), accused 2 had five relevant previous convictions (with which I have dealt with above) and accused 3 was a first offender. According to the magistrate he regarded accused 1 and 3 as adults, because they were 18 years or older. He had also taken into account the seriousness of the offence, in particular the place where the "gewraakte handeling" (the offence) was committed and the frequency thereof in the district where he presides, that is, Stilbaai, which he describes as "*'n rustige plattelanse kusdorpie wat veral gewild is onder vakansiegangers. Meerderheid van die inwoners is bejaarde afgetrede persone met enkele besighede wat die infrastruktuur verskaf. Die hof neem geregtelik kennis van die feit dat dit as 'n indiliese (sic) kusdorpie beskou kan word*".

[19] Lastly, he says, he had also considered the "regsgevoel van die gemeenskap" and "die geweldige afkeer waarmee die misdaad spesifiek beskou word", but had reminded himself not to try to live up to the expectations of the community lest the court, which is a court of justice, becomes a court of retribution ("ten einde te verhoed dat die regsbank in 'n pynbank ontaard"). In

the circumstances, so he maintains, and after having weighed up all relevant circumstances, he was and remains of the opinion that the sentences imposed in respect of all three accused – three (3) years direct imprisonment – were justified.

[20] The magistrate did not deal with the contents of both reports of the correctional official and the probation officer in respect of each of the accused, not in his reasons furnished nor in the court when he imposed the sentence as abovestated. No reasons are given, nor any basis laid or established why these recommendations were ignored and/or simply rejected, as he appeared to have done. Given the fact that all these reports were handed in, and admitted as uncontested evidence regarding its content, cogent reasons must exist for its rejection, especially given the circumstances of this particular case. No such reasons were furnished. It is trite that the sentencing discretion ultimately vests in the sentencing court and that a court of review or appeal will not interfere in the exercise of that discretion by the sentencing court, unless the exercise thereof is vitiated by a serious misdirection and/or an irregularity [see *S v Malgas* 2001 (1) SACR 469 (SCA) 478 D-G; *S v N* 2008 (2) SACR 125 (SCA) 140 paragraph 11; *Director of Public Prosecutions v Mngoma* 2010 (1) SACR 427 (SCA) 431 D, paragraph 11]. The exercise of that discretion and the ultimate sentencing decision must be based on the admitted evidence and objective facts placed before such a sentencing court, and in accordance with the intention of the legislature. See *S v Malgas* (*supra*) paragraphs [7] to [9]. *S v Matyityi* 2011 (1) SACR 40 (SCA) paragraphs [11], [16], [18], [21] and [23]. In this matter, the reports of the correctional official and the probation officer constituted important evidentiary material regarding each of the accused to be sentenced. It has been placed before that court, not to fetter its sentencing

discretion, but to serve as a useful, and indeed, an important guide and assisting mechanism, for that court to use in the exercise of its sentencing discretion. Its contents and recommendations were not contested nor contradicted by any other evidence which was led and/or admitted by that court. The magistrate could have indicated to any of the parties, the State and the defence, which aspects of these reports and/or recommendations, if any, the court would like to hear evidence on, to further clarify any aspect thereof, including its recommendations. This would obviously have enabled the parties, including the defence, the prosecutor or the relevant compiler/author of the report to address such aspect and/or concern. It would also have afforded an opportunity to these parties to reply to such queries. The magistrate did not do so. He only requested a probation officer to come and address his query regarding a "verbeteringskool" and the required ages for such offenders to be admitted to such a "verbeteringskool". The magistrate as the sentencing court, and in his subsequent reasons, failed to deal with correctional supervision in respect of all three accused as a sentencing option, as he was required to do. In the circumstances of this case it is clear that the sentencing court did not truly consider correctional supervision in respect of these accused as a sentencing option. It is therefore clear, that, in the circumstances the magistrate closed his mind to anything other that direct imprisonment. This is an irregularity. (See *S v Kotze* 1994 (2) SACR 214 (O). See generally *S v R* 1993 (1) SA 476 (A)).

[21] It is trite that correctional supervision can be imposed as a meaningful alternative sentencing option to imprisonment in respect of "any offence", (see Section 276 (3) (b) of the Criminal Procedure Act 51 of 1977), which includes a serious offence. See generally *S v R supra*; *S v M* (Centre for Child Law as *Amucus Curiae*) 2007 (2) SACR 539 [CC]. It has been described as ushering in

a new phase into the South African criminal justice system, at the disposal of judicial sentencing officers to be used creatively and innovatively, which is flexible enough to meet the specific circumstances of each offender's case. (*S v R* (*supra*); *S v M* (Centre for Child Law as *Amicus Curiae* (*supra*) at [64].) It is trite furthermore that correctional supervision enables a sentencing court to impose severe punishment upon even serious offences, and to serve the interests of the community, without making use of imprisonment, and without thereby sometimes, if not most of the time, destroying whatever good characteristics and rehabilitation potential remain as far as the offender is concerned. (*S v R* (*supra*). Some of the unique characteristics of, and options created by, correctional supervision are, amongst others, that it "... keeps open the option of restorative justice" and "creates a greater chance for rehabilitation than does prison, given the conditions in our overcrowded prisons." (*S v M* [Centre for Child Law as *Amicus Curiae] supra* at [62] and [61] respectively). It is trite furthermore that direct imprisonment for youthful and child offenders must only be used where there is no other legitimate sentencing option other than direct imprisonment. "Prison must therefore be a "last resort". (S v N 2008 (2) SACR 135 (SCA) at [38]. This is so because child offenders must be distinguished from adults, since the crimes of children "may stem from immature judgment, from as yet unformed character, from youthful vulnerability to error and impulse "(*S v N* (*supra)* at [42]. Youthfulness, peer pressure and impulsive error of judgment are therefore necessary and important considerations which should be taken into account by the sentencing court in deciding whether or not to impose direct imprisonment in respect of youthful offenders, and which should, as a constitutional imperative, only be imposed as a last resort in respect of children under the age of 18 years. [See Section 28 of the Constitution; see also *S v Jackson and Others* 2008 (2) SACR 274 (C) paragraph 40; *S v N* (*supra).*

The above are pertinent considerations which find application on the facts and circumstances of this case. The magistrate seems to have overlooked or disregarded these considerations or at the very least have totally under-emphasized their relevance and applicability in the particular circumstances of this case. In short, he has over-emphasized the elements of retribution based on his perceptions of the "regsgevoel" of the Stilbaai community, at the expense of the other equally important objectives of punishment such as rehabilitation, and, importantly restorative justice.

[22] The facts of this matter reveal that:

1. All three offenders are youthful offenders, accused 1 being 18 years, accused 2, 17 years and accused 3, 20 years at the time of the commission of the offence.
2. They have committed the offence of housebreaking with intent to steal and theft of goods to the value, as accepted by the state, of R6000.00 in total, which is a serious offence.
3. According to the investigating officer's evidence during the bail proceedings a few of these stolen items were retrieved, which aspect was confirmed in the reports of the correctional official and the probation officer.
4. There is no evidence of serious damage caused to the business premises which these accused had broken into.
5. The correctional officer's report in respect of accused 1 (Exhibit H) describes that the accused had gained entry into this business premises (a shop) through a window after having taken it out – presumably the glass – with a knife and thereafter climbing through this window. Accused 1 and 3 entered the premises while

accused 2 was guarding outside. All three of these accused were apparently under the influence of drugs when they committed this offence. This is corroborated by the other correctional and probation officer's reports in respect of the other two accused.

6. All three of them pleaded guilty to this charge by way of a written plea explanation (Exhibits A, B and C respectively) wherein they admitted everything and made full disclosure of their respective roles, their intent and the items they had stolen.

7. It is evident from the submissions made by and on behalf of all three accused in respect of sentence, to the sentencing court, that all three of them were truly remorseful for what they had done and accepted that they deserved to be punished for this unlawful deed.

8. It is also evident from the reports of the correctional official and the probation officer (Exhibits H-N) that:

   a) all three of them came from very poor socio-economic backgrounds, especially accused 2, who subsequent to his mother's passing in 2004, when he would have been only 10 years old, grew up in a very unstable household and in economically deprived domestic circumstances. His father, a labourer, started to abuse alcohol, which created problems between the two of them, to the extent that, presently he has no contact with his biological father despite the fact that he and his father both live in Melkhoutfontein;

   b) all three of them were generally remorseful for what they have done, admitted that it was wrong and that they had to accept the consequences of their aforestated wrongful actions;

c) all three of them had the necessary support structures within the community, albeit not hundred percent ideal, outside and within their respective family structures, which can be monitored and which can be used, given adequate and appropriate monitoring, as a basis to develop their respective rehabilitative potential;

d) all three had the necessary rehabilitative qualities and potential which can be developed and guided in a non-custodial environment, and not necessarily in a prison and/or institutionalized environment;

e) all three the accused expressed the desire to be given "a last chance", that is, to a punishment and/or sentence other than direct imprisonment; and

f) Importantly, all these reports confirm that all three the accused are imminently suitable candidates in the circumstances of this case, for correctional supervision as an appropriate punishment, in terms of Section 276 (1) (h) of the Criminal Procedure Act 51 of 1977. Although, as was pointed out in the letter to the magistrate, a punishment in terms of Section 276 (1) (i) of the Criminal Procedure Act 51 of 1977, was recommended only by the correctional official and only in respect of accused 3, correctional supervision in respect of him was <u>not</u> excluded. Moreover, the probation officer recommended correctional supervision in terms of Section 276 (1) (h) of Act 51 of 1977, in respect of him (accused 3).

9. The complainant in this matter, who is supposedly the victim of

this crime, did not testify in these proceedings. The state decided not to call her, as is their right. The magistrate also deemed it not necessary to hear any evidence from her before considering and imposing the sentences in respect of these accused.

10. No evidence was led and accordingly there is no evidence on this record, that the singular act committed by these accused, by having committed this specific offence, had offended the image of Stilbaai, as "an idyllic coastal town", or of the shop, "Matchbox" alleged to be "a beacon" of Stilbaai, or the "regsgevoel" of the Stilbaai community in particular, to the extent that it justifies the imposition of three (3) years direct imprisonment in respect of all three the accused. For the magistrate to have taken "judicial notice" of these aspects, as he has done and which according to him he was entitled to do, in the absence of any evidence in that regard, without giving any authority or source for that proposition, is simply not provided for, nor permissible in terms of Section 224 of the Criminal Procedure Act 51 of 1977. This section provides that judicial notice shall in criminal proceedings be taken of – (a) any law or any matter published in a publication which purports to be the Gazette or the Official Gazette of any province; (b) any law which purports to be published under the superintendence or authority of the Government Printer.

For the magistrate to have done so, and to use that as evidence as the basis of, or which informed, his decision to impose three (3) years direct imprisonment in respect of all three the accused constitute in the circumstances of this case, a serious irregularity.

[23] I now turn to the queries relating to the provisions of the Child Justice Act 75 of 2008, and the magistrate's reply thereto.

[24] The provisions of the Child Justice Act 75 of 2008 (the Act) which commenced on 1 April 2010, has ushered into the South African criminal justice system, more particularly its juvenile justice system, a new era, similar to that of the introduction of Section 276 (1)(h) and Section 276 (1) (i) of the Criminal Procedure Act. These provisions are however confined to that part of the criminal justice system that deals with, and includes juvenile justice. The intention of the legislature with this legislation is clearly to give effect, form and content to the constitutionally guaranteed rights of children as set out in Section 28 of the Constitution read with Section 35 of the Constitution, in the context of the criminal justice system.

[25] Chapter 10 (Sections 68-79) of this Act 75 of 2008 is of particular importance in this case. This chapter deals with sentencing of a convicted child and provides, in peremptory terms in Part 3 thereof, in its introductory section, Section 68 that: "A child justice court must, after convicting a child, impose a sentence in accordance with this chapter" (emphasis added). A child is "any person under the age of 18 years and, in certain circumstances, means a person who is 18 years or older, but under the age of 21 years whose matter is dealt with in terms of Section 4 (2)" (see Section 1 of the Act). Section 69 sets out the objectives of sentencing in terms of this Act, as well as the factors which must be taken into account by the sentencing court in deciding on an appropriate sentence, and before imposing any sentence. These objectives are, in addition to any other considerations, the following:

"(1). In addition to any other considerations relating to sentencing, the objectives of sentencing in terms of the Act are to -

a) encourage the child to understand the implications of and be accountable for the harm caused;

b) promote an individualised response which strikes a balance between the circumstances of the child, the nature of the offence and the interests of society;

c) promote the reintegration of the child into the family and community;

d) ensure that any necessary supervision, guidance, treatment or services which form part of the sentence assist the child in the process of reintegration; and

e) **use imprisonment only as a measure of last resort and only for the shortest appropriate period of time".** (emphasis added).

The sentencing court in respect of a child – the child justice court – is "encouraged" to adopt "a restorative justice approach" in order to promote these objectives, and to that end, "sentences may be used in combination" (in Section 69 (2) of the Act).

[26] The factors that such a court must take into account before sentencing, are the following:

"a) Whether the offence is of such a serious nature that it indicates that the child has a tendency towards harmful activities;

b) whether the harm caused by the offence indicates that a residential sentence is appropriate;

c) the extent to which the harm caused by the offence causing or

risking the harm; and

d) whether the child is in need of a particular service provided at a child and youth care centre.

Subsection 4 of Section 69 prescribes, in peremptory terms, the additional factors that must be considered, in addition to the abovestated factors, by that court when it is considering direct imprisonment in respect of such an offender. These are the following:

a) The seriousness of the offence, with due regard to –
   (i) The amount of harm done or risked through the offence; and
   (ii) The culpability of the child in causing or risking the harm;
b) the protection of the community;
c) the severity of the impact of the offence on the victim;
d) the previous failure of the child to respond to non-residential alternatives, if applicable; and
e) the desirability of keeping the child out of prison.

[27] Section 70 makes provision for a victim impact assessment report regarding the physical, psychological, social, financial or other impact of the offence on the victim, called a victim impact statement, its admissibility as evidence, and for the prosecutor to furnish such a report to the court.

[28] Section 71 makes it obligatory for the child justice court to request a pre-sentence report prepared by a probation officer before it imposes any sentence. This requirement may only be disposed with where a child is convicted of an offence referred to in Schedule 1 of the Criminal Procedure Act (which is not applicable in this case) or where requiring such a report would cause undue delay, to the prejudice of the child. However, no child may be sentenced to

compulsory residence in a child and youth care centre or to imprisonment unless a pre-sentence report has first been obtained (in terms of Section 71 (1) (b) of the Act). Importantly, a child justice court may impose a sentence other than that recommended in the pre-sentence report, but in that event, that court "MUST enter the reasons for the imposition of a different sentence on the record of the proceedings" (Section 71 (4) of Act: emphasis added).

[29] Part Two of this Chapter (Sections 72-79), deals with the different sentencing options open to the sentencing court, which include:

a) community – based sentences, as set out in Section 72 of the Act;

b) restorative justice sentences, as set out in Section 73 of the Act;

c) the imposition of a fine or alternatives to a fine, as set out in section 74 of the Act;

d) sentences involving correctional supervision both in terms of Section 276 (1) (h) and Section 276 (1) (i) of the Criminal Procedure Act 51 of 1977, as provided for and set out in Section 75 of the Act;

e) a sentence of compulsory residence in a child and youth care centre, as set out and provided for in Section 76 of the Act;

f) an order by the court to postpone or to suspend the passing of sentence in respect of a convicted child as set out and provided for in Section 78 of the Act;

g) holding of an enquiry into an alleged breach of, or failure to comply with any imposed sentencing condition(s), on the part of the child, and the powers of the court in such an event, as set out and provided for in Section 79 of the Act; and

h) to impose a sentence of imprisonment, as set out and provided for

in Section 77 of the Act. The relevant parts of this section read as follows:

77. **Sentence of imprisonment.** – (1) A child justice court –

(a) may not impose a sentence of imprisonment on a child who is under the age of 14 years at the time of being sentenced for the offence; and

(b) when sentencing a child who is 14 years or older at the time of being sentenced for the offence, **must only do so as a measure of last resort and for the shortest appropriate period of time.** (emphasis added).

(2) ...

(3) A child who is 14 years or older at the time of being sentenced for the offence, and in respect of whom subsection (2) does not apply, may only be sentenced to imprisonment, if the child is convicted of an offence referred to in –

(a) Schedule 3;

(b) Schedule 2, if substantial and compelling reasons exist for imposing a sentence of imprisonment; or

(c) Schedule 1, if the child has a record of relevant previous convictions and substantial and compelling reasons exist for imposing a sentence of imprisonment.

(4) A child referred to in subsection (3) may be sentenced to a sentence of imprisonment for a period not exceeding 25 years.

(5) A child justice court imposing a sentence of imprisonment must

antedate the term of imprisonment by the number of days that the child has spent in prison or child and youth care centre prior to the sentence being imposed.

(6) ...

What is clear from the provisions of Section 77 read with Section 71, and Section 1, is that,

a) a child for the purposes of this Act, is any person/child under the ages of 18 years, but may also be a person of 18 years or older but under 21 years;

b) a sentence of direct imprisonment in terms of Section 77 cannot be imposed before and unless a pre-sentence report in respect of the offender had been obtained and considered by the sentencing court (in terms of Section 71 (1) (b) of the Act);

c) direct imprisonment in respect of a child under the age of 14 years of age at the time of being sentenced, may not be imposed (in terms of Section 77 (1) (a) of the Act);

d) direct imprisonment in respect of a child of 14 years or older may ONLY be imposed if the child has been convicted of an offence referred to in Schedules 1, 2 or 3 of the Criminal Procedure Act;

e) where such a child has been convicted on an offence referred to in Schedule 2, he or she may only be sentenced to direct imprisonment "if substantial and compelling reasons exist for imposing a sentence of imprisonment" (Section 77 (3) (b); emphasis added);

f) where such a child has been convicted of an offence referred to in Schedule 3, he or she may only be sentenced to direct imprisonment, "if the child has a record of relevant previous convictions AND substantial and compelling reasons exist for imposing a sentence of imprisonment". (Section 77 (3) (c); emphasis added));

g) where such a child has been convicted of an offence referred to in Schedule 3, he or she may be sentenced to a period not exceeding 25 years (Section 77 (3) (a) read with Section 77 (4).

h) where such a child has been convicted of an offence referred to in Schedule 2, and provided substantial and compelling reasons exist for imposing direct imprisonment, he or she may be sentenced to a period of imprisonment not exceeding 25 years;

i) where such a child has been convicted of an offence referred to in Schedule 1, and provided he or she has a record of relevant previous convictions AND substantial and compelling reasons exist for imposing direct imprisonment, he or she may be sentenced to a period of imprisonment not exceeding 25 years;

j) Where such a child has however been convicted of any other offence than these referred to in Schedule 1, 2 or 3, or, where NO substantial and compelling reasons exist in respect of the Schedule 1 and 2 offences of which he/she was convicted, the sentencing court is obliged to impose direct imprisonment "only as a measure of last resort

AND for the shortest appropriate period of time" (Section 77 (1) (b) of the Act; emphasis added).

[30] The legislature has therefore in unequivocal terms incorporated those principles, guidelines and considerations as developed by our highest courts in the case law referred to above, in this Act, and has elevated those, in the context of our juvenile justice system, to having legal force and effect. Non- compliance thereof will henceforth not only be irregular, but also unlawful, in violation of the principle of legality.

[31] The magistrate, sitting as the sentencing court clearly did not consider these provisions nor the importance thereof in respect of the accused before him at the time of sentence, particularly accused 2 who was 17 years old. It is indeed very unfortunate that neither the prosecutor, nor the defence, nor the officials from the Department of Correctional Services and the Department of Social Services referred the magistrate to this Act and its provisions. The magistrate has, in his subsequent reasons/reply, acknowledged that the provisions of this Act were/are indeed applicable to accused 2. He said that he did indeed consider and apply these provisions in respect of accused 2. This assertion flies in the face of at least five objective facts:

1. The trial court record is devoid of any reference to or mentioning of, the provisions of this Act, particularly Chapter 10 thereof;
2. The magistrate did not request any pre-sentence report in respect of accused 2 before imposing and/or considering direct imprisonment, in violation of Section 71 (1) (b) of the Act;
3. Should the reports of the correctional official and the probation officer be regarded as a report for purposes of Section 77 – which it

was clearly not, although the magistrate disingenuously purported it to be such a report - the magistrate clearly did not follow the recommendations of the either the correctional official and the probation officer. In the event, he was obliged to enter on the record of the proceedings his reasons for imposing a different sentence, namely, that of direct imprisonment. He did not.

4. Even if it can be said that the sentence imposed by the magistrate in respect of accused 2, was in terms of and pursuant to, the provisions of Section 77 (3) of the Child Justice Act of 2008, the offence being a Schedule 2 offence, - such a sentence, of 3 years direct imprisonment in respect of accused 2 could only have been imposed if substantial and compelling reasons existed for imposing such a sentence, and as a last resort, and for the shortest appropriate time. There is no reference to such an enquiry having been done by the magistrate, nor is there any reference to the terms "substantial and compelling reasons", in respect of any finding made by the magistrate in that regard. There was therefore no compliance with Section 77 (1) and (3) of this Act.

5. A final indication that the magistrate did not consider and apply the provisions of this Chapter, is that he, when imposing the said sentence in respect of all three accused, in particular with reference to accused 2, did not antedate the term of imprisonment of accused 2 by the number of days that accused 2 spent in prison since his arrest, as he was obliged but failed to do, in violation of Section 77 (4) of the Act.

[32] These constitute, to my mind gross irregularities and serious violations of

the provisions of the Child Justice Act, 2008, which necessitated this court to enquire urgently into this matter, as was done.

[33] Another serious aspect which I have also noticed pursuant to the reply of the magistrate (to the 5th question referred to in paragraph [1] above) was the fact that accused 2 was and is to date, still not in this so-called "Brandvlei Jeugtronk" to which he had been sentenced and referred by this magistrate, by court order dated 8 July 2011. It is almost three (3) months since that court order, yet it has for reasons unexplained, and unacceptable to this court, not been complied with. In instances such as these, where juveniles are involved, it remains the duty of the sentencing court to monitor the placement and movement of such an offender to the designated place of custody, which had clearly not been done in this case. (See Section 76 of the Child Justice Act 75 of 2008).

[34] For the reasons as set out above, I propose to make the following order:

1) The sentences of three (3) years direct imprisonment in respect of accused 1, 2 and 3 under Riversdale Magistrate's Court case no. SB26/2011, are hereby reviewed and set aside with immediate effect, and replace with the following sentence:

1.1 In respect of Accused 1, Riaan Snyders, he is sentenced to eighteen (18) months correctional supervision in terms of Section 276 (1) (h) of the Criminal Procedure Act 51 of 1977, in accordance with, and subject to, the conditions as set out in the correctional report marked Exhibit "H", as amended by this court, and a copy whereof is annexed hereto, marked "H".

1.2 In respect of Accused 2, Paul Sollmans, he is sentenced to eighteen (18) months correctional supervision in terms of Section 276 (1) (h) of the Criminal Procedure Act 51 of 1977, in accordance with, and subject to, the conditions as set out in the correctional report marked Exhibit "J", as amended by this court, and a copy whereof is annexed hereto, marked "J".

In considering the appropriate programmes to be imposed in respect of Accused 2, Paul Sollmans, the Commissioner of Correctional Services and/or his/her duly delegated official, must, in addition to the recommendations of the correctional official and the probation officer in their respective reports, give special consideration to an educational institution which he could attend to continue his schooling career.

1.3 In respect of Accused 3, Dudley Romeo Deutshen, he is sentenced to eighteen (18) months correctional supervision in terms of Section 276 (1) (h) of the Criminal Procedure Act 51 of 1977, in accordance with, and subject to, the conditions as set out in the correctional report marked Exhibit "K", as amended by this court, and a copy whereof is annexed hereto, marked "K".

2 This sentence of eighteen (18) months correctional supervision in terms of Section 276 (1) (h) of the Criminal Procedure Act 51 of 1977, in respect of each accused respectively is antedated to 8 July 2011 in terms of Section 282 of the Criminal Procedure Act 51 of 1977.

3 It is ordered that Riaan Snyders, Accused no. 1, Paul Sollmans, Accused no.

2 and Dudley Romeo Deutchen, Accused no. 3, be released from custody forthwith, and that they be warned to report at the offices of the Department of Correctional Services, Community Corrections (Gemkor) Mossel Bay, at 4th floor, Montagu Place, Mossel Bay on **Wednesday, 5 October 2011,** at 10h00 or on a date and time as determined by the Commissioner of Correctional Services or his/her duly delegated official.

4 A copy of this judgment must be brought to the attention of the Chief Magistrates and the Regional Court President under whose jurisdiction the Riversdale Magistrate's Court resorts, as well as the Western Cape Director of Public Prosecutions, the Provincial Commissioner of Correctional Services and the Provincial Administration: Western Cape, Department of Social Services.

MOSES, AJ

I agree. It is so ordered.

ALLIE, J

Saaknommer : **SB 26/2011**

Staat teen : **Riaan Snyders**

30/04/11

Dat die beskuldige onder die Hoë Risiko Kategorie van die Korrektiewe stelsel geplaas word vir die helfte van sy vonnistydperk en dat die opgradering/degradering van sy voorregte daarna deur die Kommissaris van Korrektiewe Dienste of sy gedelegeerder hersien en gedoen mag word.

Dat die huisarres die volgende tye uitsluit :

Vir werkdoeleindes : Soos gereël met Gem.Kor.
Vir die bywoning van eredienste : Sondae vanaf 09:00 tot 10:00
Dric(3) ure vrye tyd per week. Hierdie vryetyd word aangepas indien die beskuldigde se voorregte opgradeer word.
Vir die bywoning van konsultasies by die Gemkor kantoor.
Vir die bywoning van Programme.
Vir die verrigting van Gemeenskapsdiens.

Dat die Kommissaris van Korrektiewe Dienste of sy gedelegeerde by magte is om bogenoemde tye te wysig / aan te pas sou die beskuldigde se omstandighede (byvoorbeeld werkbesonderhede) verander.

Dat die beskuldigde hom sal onderwerp aan behandelingsprogramme soos deur Gemkor bepaal, wat op sy spesifieke behoeftes/problematiek betrekking het, met die doel om die beskuldigde te rehabiliteer en beter toe te rus vir sy verantwoordelikheid as lid van die gemeenskap. Die beskuldigde sal deur die Maatskaplike Werkster geassesseer word en by programme betrek word.

Dat die beskuldigde sestien (16) uur gemeenskapsdiens per maand sal verrig by 'n instansie soos deur die Hoof Gemkor bepaal. Hierdie om te voldoen aan die gemeenskap se verwagtinge in terme van vergelding en vergoeding vir die misdaad, met dien verstande dat 'n gedeelte (maksimun 'n derde) daarvan opgeskort kan word indien sy samewerking en gedrag dit regverdig. Voorts dat die Hoof Gemkor hom 1 uur addisionele gemeenskapsdiens mag oplê vir elke uur wat hy nagelaat het om gemeenskapsdiens te doen.

Dat die beskuldige hom van die gebruik van alkohol of dwelms weerhou vir die duur van die vonnistydperk.

Dat die beskuldigde hom van misdaad weerhou vir die duur van die vonnistydperk.

Dat die beskuldigde nie van woonadres en/of werkadres sal verwissel of die Landdrosdistrik van Stilbaai sal verlaat sonder vooraf magtiging by Gemkor nie.

Dat die beskuldigde hom sal onderwerp aan enige relevante en redelike voorwaarde(s) soos deur Gemkor bepaal.

30/04/11

'H'

Dat die Kommissaris Korrektiewe Dienste of sy gedelegeerde toesien dat die betrokke voorwaardes nagekom word en ooreenkomstig bepalings van Artikel 70 van Wet op Korrektiewe Dientes (Wet 111/1998) sal handel by verbreking van die voorwaardes.

Dat hy gewaarsku word aangaande Artikel 117(c) van Wet 111/98 wat bepaal dat indien hy uit die stelsel van Gemeenskapskorreksies dros hy hom skuldig maak aan 'n misdryf wat gevangenisstraf van hoogstens tien (10) jaar met of sonder die keuse van 'n boete of beide tot gevolg kan hê.

Dat die beskuldigde hom op ~~Dinsdag 3 Mei 2011~~ Woensdag 5 Oktober 2011 voor 10:00 by die Gemkor Kantoor Mosselbaai, 4 De Vloer, Montagu Place, Mosselbaai sal aanmeld indien die vonnis opgelê word, of op 'n datum en tyd soos bepaal deur die Kommissaris Korrektiewe Dienste of sy gedelegeerde.

30/09/11

Saaknommer : **SB 26/2011**

Staat teen : **Paul Sollmans**

Dat die beskuldige onder die Hoë Risiko Kategorie van die Korrcktiewe stelsel geplaas word vir die helfte van sy vonnistydperk en dat die opgradering/degradering van sy voorregte daarna deur die Kommissaris van Korrektiewe Dienste of sy gedelegeerder hersien en gedoen mag word.

Dat die huisarres die volgende tye uitsluit :

Vir werkdoeleindes : Soos gereël met Gem.Kor.
Vir die bywoning van eredienste : Sondae vanaf 09:00 tot 10:00
Drie(3) ure vryc tyd per week. Hierdie vryetyd word aangepas indien die beskuldigde se voorregte opgradeer word.
Vir die bywoning van konsultasies by die Gemkor kantoor.
Vir die bywoning van Programme en/of skool of onder gepaste opvoedinginstansie.
Vir die verrigting van Gemeenskapsdiens.

Dat die Kommissaris van Korrektiewe Dienste of sy gedelegeerde by magte is om bogenoemde tye te wysig / aan te pas sou die beskuldigde se omstandighede (byvoorbeeld werkbesonderhede) verander.

Dat die beskuldigde hom sal onderwerp aan behandelingsprogramme soos deur Gemkor bepaal, wat op sy spesifieke behoeftes/problematiek betrekking het, met die doel om die beskuldigde te rehabiliteer en beter toe te rus vir sy verantwoordelikheid as lid van die gemeenskap. Die beskuldigde sal deur die Maatskaplike Werkster geassesseer word en by programme betrek word.

Dat die beskuldigde sestien (16) uur gemeenskapsdiens per maand sal verrig by 'n instansie soos deur die Hoof Gemkor bepaal. Hierdie om te voldoen aan die gemeenskap se verwagtinge in terme van vergelding en vergoeding vir die misdaad, met dien verstande dat 'n gedeelte (maksimun 'n derde) daarvan opgeskort kan word indien sy samewerking en gedrag dit regverdig. Voorts dat die Hoof Gemkor hom 1 uur addisionele gemeenskapsdiens mag oplê vir elke uur wat hy nagelaat het om gemeenskapsdiens te doen.

Dat die beskuldige hom van die gebruik van alkohol of dwelms weerhou vir die duur van die vonnistydperk.

Dat die beskuldigde hom van misdaad weerhou vir die duur van die vonnistydperk.

Dat die beskuldigde nie van woonadres en/of werkadres sal verwissel of die Landdrosdistrik van Stilbaai sal verlaat sonder vooraf magtiging by Gemkor nie.

Dat die beskuldigde hom sal onderwerp aan enige relevante en redelike voorwaarde(s) soos deur Gemkor bepaal.

"J"

Dat die Kommissaris Korrektiewe Dienste of sy gedelegeerde toesien dat die betrokke voorwaardes nagekom word en ooreenkomstig bepalings van Artikel 70 van Wet op Korrektiewe Dientes (Wet 111/1998) sal handel by verbreking van die voorwaardes.

Dat hy gewaarsku word aangaande Artikel 117(e) van Wet 111/98 wat bepaal dat indien hy uit die stelsel van Gemeenskapskorreksies dros hy hom skuldig maak aan 'n misdryf wat gevangenisstraf van hoogstens tien (10) jaar met of sonder die keuse van 'n boete of beide tot gevolg kan hê.

Dat die beskuldigde hom op ~~Dinsdag 3 Mei~~ Woensdag 5 Oktober 2011 2011 voor 10:00 by die Gemkor Mosselbaai, 4 De Vloer, Montagu Place, Mosselbaai sal aanmeld indien die vonnis opgelê word, of op 'n datum en tyd soos bepaal deur die Kommissaris Korrektiewe Dienste of sy gedelegeerde.

30/09/2011

Saaknommer : **SB 26/2011**

Staat teen : **Dudley Romeo Deutchen**

'K' 30/09/11

Dat die beskuldige onder die Hoë Risiko Kategorie van die Korrektiewe stelsel geplaas word vir die helfte van sy vonnistydperk en dat die opgradering/degradering van sy voorregte daarna deur die Kommissaris van Korrektiewe Dienste of sy gedelegeerder hersien en gedoen mag word.

Dat die huisarres die volgende tye uitsluit :

Vir werkdoeleindes : Soos gereël met Gem.Kor.
Vir die bywoning van eredienste : Sondae vanaf 09:00 tot 10:00
Drie(3) ure vrye tyd per week. Hierdie vryetyd word aangepas indien die beskuldigde se voorregte opgradeer word.
Vir die bywoning van konsultasies by die Gemkor kantoor.
Vir die bywoning van Programme.
Vir die verrigting van Gemeenskapsdiens.

Dat die Kommissaris van Korrektiewe Dienste of sy gedelegeerde by magte is om bogenoemde tye te wysig / aan te pas sou die beskuldigde se omstandighede (byvoorbeeld werkbesonderhede) verander.

Dat die beskuldigde hom sal onderwerp aan behandelingsprogramme soos deur Gemkor bepaal, wat op sy spesifieke behoeftes/problematiek betrekking het, met die doel om die beskuldigde te rehabiliteer en beter toe te rus vir sy verantwoordelikheid as lid van die gemeenskap. Die beskuldigde sal deur die Maatskaplike Werkster geassesseer word en by programme betrek word.

Dat die beskuldigde sestien (16) uur gemeenskapsdiens per maand sal verrig by 'n instansie soos deur die Hoof Gemkor bepaal. Hierdie om te voldoen aan die gemeenskap se verwagtinge in terme van vergelding en vergoeding vir die misdaad, met dien verstande dat 'n gedeelte (maksimun 'n derde) daarvan opgeskort kan word indien sy samewerking en gedrag dit regverdig. Voorts dat die Hoof Gemkor hom 1 uur addisionele gemeenskapsdiens mag oplê vir elke uur wat hy nagelaat het om gemeenskapsdiens te doen.

Dat die beskuldige hom van die gebruik van alkohol of dwelms weerhou vir die duur van die vonnistydperk.

Dat die beskuldigde hom van misdaad weerhou vir die duur van die vonnistydperk.

Dat die beskuldigde nie van woonadres en/of werkadres sal verwissel of die Landdrosdistrik van Stilbaai sal verlaat sonder vooraf magtiging by Gemkor nie.

Dat die beskuldigde hom sal onderwerp aan enige relevante en redelike voorwaarde(s) soos deur Gemkor bepaal.

30/09/11

"K"

Dat die Kommissaris Korrektiewe Dienste of sy gedelegeerde toesien dat die betrokke voorwaardes nagekom word en ooreenkomstig bepalings van Artikel 70 van Wet op Korrektiewe Dientes (Wet 111/1998) sal handel by verbreking van die voorwaardes.

Dat hy gewaarsku word aangaande Artikel 117(e) van Wet 111/98 wat bepaal dat indien hy uit die stelsel van Gemeenskapskorreksies dros hy hom skuldig maak aan 'n misdryf wat gevangenisstraf van hoogstens tien (10) jaar met of sonder die keuse van 'n boete of beide tot gevolg kan hê.

Dat die beskuldigde hom op ~~Dinsdag 3 Mei 2011~~ Woensdag 5 Oktober 2011 voor 10:00 by die Gemkor Kantoor Mosselbaai, 4 De Vloer, Montagu Place, Mosselbaai sal aanmeld indien die vonnis opgelê word, of op 'n datum en tyd soos bepaal deur die Kommissaris Korrektiewe Dienste of sy gedelegeerde.

30/09/11