

**COURT OF MAGISTRATES (MALTA)
As A COURT OF CRIMINAL JUDICATURE**

MAGISTRATE DR. JOSETTE DEMICOLI LL.D

**The Police
(Inspector Jurgen Vella)**

Vs

**Shawn Cassar
Gillian Cassar**

Today, 7th March, 2016

The Court,

Havin seen the charges against Shawn Cassar, son of Anthony and Pauline nee Crabtree, born in Pieta' on the 20th June 1966, residing at 13, Rainbow, Flat 3, Triq Bubaqra, Zurrieq and holder of identity card number 260066M and against Gillian Cassar daughter of unknown parents, born in England on the 31st March 1975, residing at 3 Triq il-Qajjienza, B'Bugia and holder of identity card number 30361A:

Being charged of having on the 6th May 2013 and in previous times, in the vicinities of St. Catherine Fire Works factory, Zurrieq and on these islands, as persons who keep any animal or who agrees to look after an animal responsible for its health and welfare caused any necessary pain, suffering or distress and or abandoned any animals in breach of article 8(2)(3) of Chapter 439 of the laws of Malta;

Also charged of having at the same place, date, time and circumstances, as owners, the keepers, the dealers or the importers, the consignee, the carriers, the retailers or any other person authorised under the revisions of Veterinary Service Act to dispose of live animals, products of animal origin, products listed in the First Schedule, animal feeding stuff s or veterinary medicinal products, or the representative of such persons, or any person in charge of a private veterinary activity subject to the provisions of this Act, failed to observe any obligation imposed under this mentioned Act relating to

contagious diseases, and implement the rules relating thereto; by failing to identify and register animals, and declare the movements of animals for which they are responsible in breach of article 35 (1)(c)(iii) of Chapter 437 of the laws of Malta.

Also charged of having at the same place, date, time and in circumstances, kept, reared or fattened swine in any place when that place was not licensed as a swine farm for any of those specific purposes in breach of regulation 5 of Subsidiary Legislation 36.28 of the laws of Malta.

Also charged of having at the same place, date, time and circumstances as the owners or keepers of a dog/s failed to ensure that the dog/s wears a tag or a badge bearing the owner's or keeper's telephone number and it shall be worn at all times when the dog is in a public place in breach of regulation 4 of Subsidiary Legislation 437.101 of the laws of Malta.

Also charged of having at the same place, date, time and circumstances as persons who keep a farm, or who work or are employed therein, failed to register themselves and the farm they work at, or keep, with the Director, and also kept animals in, or worked on, such farm when they and the farm they work in were not registered in breach of regulation 3(2) of Subsidiary Legislation 36.32 of the laws of Malta.

Also charged of having at the same place, date, time and circumstances as persons who keep ovine's or caprines, failed to register all animals that are being kept for breeding within three months of their birth in breach of regulation 9(2) of "Subsidiary Legislating 36.32 of the laws of Malta.

The court is humbly requested that in case of conviction, in addition to any other penalties that it may impose, order all animals to be forfeited in favour of the Government and, if so forfeited, shall be disposed of in such a manner as the Court may determine on the advice of the Director of Veterinary Services in accordance of article 57(2) of Chapter 437 of the laws of Malta.

Moreover the court is humbly requested in respect of proceedings for offences to award in favour of the Government such costs and expenses incurred in relation to those proceedings as it may deem proper in accordance of article 58(1) of Chapter 437 of the laws of Malta.

Having heard witnesses.

Having heard final submissions.

Having seen the acts and documents of this case.

Considers:

Dr Duncan Chetcuti Ganado, Senior Veterinary Officer at the Veterinary Regulations Directorate, testified that the department officers went on inspection on a farm just above the fireworks factory of Santa Katarina in Zurrieq following a report regarding animals poorly kept on a farm.

The witness and two other officials went on the 2nd May 2013 but did not manage to enter. The following day, i.e. 3rd May 2013 the officers were accompanied by the accused Shawn Cassar who informed them that the field where animals were kept belonged to his wife. On this field the officers found 8 dogs which although were well-fed and in a good state of health. Some of these dogs were micro-chipped whilst others were not. The main concerns for the dogs were that (i) their housing conditions were extremely inadequate – for example, a pure breed Alaskan Malamite was housed in a kennel which was not large enough and thus had very little moving space. It necessitated that there was the need to protect this dog from the extremes of heat. The flooring had to be smoother to allow the dog to roam comfortably. Moreover, the dog was tied with a lead which limited his movement; (ii) the dogs found on the farm had no shelter.

The officers also found two horses which were found to be in a good state of nutrition and health. One of the horses needed a larger stable with better ventilation and shelter.

The officers also found six adult female goats, two adult male goats and two young ones, 3 pot-bellied pigs and ten geese all sharing the same area. The overall area of the shed was too small. There was insufficient ventilation, light and the water was very dirty. The goats were untagged and the premises was not registered to hold neither small ruminants nor pigs.

The goats were tested and Mr Cassar signed a declaration that he would not move any animals in or out of the farm. The accused were instructed to upgrade the farm to acceptable standards and to have the dogs micro-chipped.

On the 1st September 2015 another inspection was carried out on site and it was recognized that the overall situation was greatly improved mainly the issues regarding the housing standards.

The accused Gillian Cassar testified. She stated that she rented the field in question to keep pets for her children. She stated that the goats and the pigs were slaughtered and disposed of as evidenced by the documents exhibited by herself. With regards to the number of dogs found on the farm during the

first inspection she stated that six dogs were acyually hers, the others just entered the farm because it was easily accessible.

On the basis of the evidence and documents produced in the course of the proceedings the Court deems that all the charges have been sufficiently proven.

With regards to the punishment to be meted out, the Court is taking into consideration the nature of the crimes, the circumstances of the case, the record sheet of the accused and the fact that the accused have fully cooperated with the veterinary department and in the meantime upgraded the premises as directed.

For these reasons the Court after having seen article 8(2)(3) of Chapter 439, and article 35(1)(c)(iii) of Chapter 437, regulation 5 of Subsidiary Legislation 36.28, regulation 4 of Subsidiary Legislation 437.101, regulation 3(2) and 9(2) of Subsidiary Legislation 36.32 and article 105(b) of Chapter 36 of the Laws of Malta finds the accused guilty of the charges brought against them and thus condemns each one of them to pay a fine of seven hundred and fifty euro (€750).

Dr Josette Demicoli LL.D
Magistrate