

ONTARIO COURT OF JUSTICE
IN THE MATTER OF THE PROVINCIAL OFFENCES ACT R.S.O. 1990

HER MAJESTY THE QUEEN

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vs.

PAUL BURGIO

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P R O C E E D I N G S

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BEFORE HIS WORSHIP, D. LACAPRARA, HELD on June
17, 2014 at 71 King Street, St. Catharines.,
Ontario.

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Appearances:

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N. Isak

Prosecutor on behalf of the Crown

Agent on behalf of Defendant

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ONTARIO COURT OF JUSTICE
T A B L E O F C O N T E N T S

<u>WITNESSES:</u>	Exam. <u>in-Ch.</u>	Cr- <u>exam.</u>	Re- <u>exam.</u>
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E X H I B I T S

EXHIBIT NUMBER

ENTERED ON PAGE

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REASONS FOR JUDGMENT

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Transcript Ordered: _____

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Transcript Completed: _____

Transcript Party Notified: _____

3.
R. vs. Burgio
Arraignment

Tuesday, June 17, 2014

MR. ISAK: The next matter that I can deal with is Paul Burgio.

THE COURT: Your name?

MR. BURGIO: Paul Burgio.

THE COURT: Thank you, yes.

MR. ISAK: My understanding is Mr. Burgio wishes to dispose of his matter today, by way of a guilty plea. If that is the case the Crown will be proceeding on counts one and three on the information.

THE COURT: Mr. Burgio, do you understand when you plead guilty you waive your rights to a trial?

MR. BURGIO: Yes.

THE COURT: This is an informed plea?

MR. BURGIO: Yes.

THE COURT: Thank you, please arraign the accused on counts one and three, please.

COURT CLERK: Paul Burgio, you stand charged that on or about the 24th day of January, in the year of 2014 at 31 Meadowbrook Crescent, St. Catharines Ontario did commit the offence of fail to comply with Prescribed Standards of Care being the person who owns or has custody or care of an animal, to wit, 1 rabbit, did fail to comply with the prescribed standards of care for such animal contrary to section 11.1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act R.S.O 1990, Chapter 0.36 as amended, to wit, fail to provide adequate and appropriate medical attention as required by Ontario Regulation 60/90s.2(20 and thereby did commit an offence contrary to section

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Arraignment

18.1(1)(b) of the Ontario Society for the
Prevention of Cruelty to Animals Act R.S.O. 1990,
Chapter 0.36 as amended. Do you understand the
charge?

5 MR. BURGIO: Yes, that's the one that was heard on
the last court date?

THE COURT: That is count one?

MR. BURGIO: That's count one, yep.

COURT CLERK: And how do you plead to that charge?

10 MR. BURGIO: Guilty.

COURT CLERK: Thank you. And further that Paul
Burgio, on or about the 24th day of January, 2014,
at 39 Meadowbrook Crescent, St. Catharines, Ontario
did commit the offence of being the person who owns
15 or has custody or care of animals, to wit, 2
rabbits and 3 chickens, did fail to comply the
prescribed standards of care for such animals
contrary to section 11.1(1) of the Ontario Society
of the prevention of Cruelty to Animals Act R.S.O.
20 1990, Chapter 0.36 as amended, to wit, fail to
provide adequate and appropriate protection from
the elements, including harmful temperatures as
required by Ontario Regulation 60/90s.2.(6)(e) and
thereby did commit an offence contrary to section
25 18.1(1)(b) of the Ontario Society for the
Prevention of Cruelty to Animals Act. R.S.O 1990,
Chapter 0.36 as amended. Do you understand the
charge?

MR. BURGIO: Yes.

30 COURT CLERK: And how do you plead to the charge?

MR. BURGIO: Guilty.

THE COURT: Facts, please.

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MR. ISAK: Your Worship, on Monday, January 24th, 2014 at approximately at 3:40 p.m. the Lincoln County Humane Society received a cruelty complaint regarding some rabbits. Animal Control Officer Cruze (ph) was dispatched to attend the scene and report back. The property was listed as being 39 Meadowbrook Crescent, St. Catharines, Ontario. Animal Control Officer Cruze arrived at approximately 4:00 p.m., there were no vehicles present in the driveway of the residence. He knocked and rang the doorbell three times, but received no answer. At 4:27 p.m he left a card in the mail box. Shortly thereafter at 4:38 p.m. he proceeded to Lester B. Pearson Park in St. Catharines which is located directly behind the house, he had a clear view into the backyard of the residence where he could see a rabbit hutch, that hutch is described as being - sorry it was housing two rabbits within it, it had a roof on it, the front and the floor were made of wire mesh and it's face was open, facing southbound. The hutch was approximately five feet long, two feet high, and two feet wide. There was a small box measuring two feet long, one foot high, and one foot wide, present within the hutch facing westbound. Inspector Strooband, Lincoln County Humane Society also attended, there were photographs taken of the hutch in the back yard. The Lincoln County Humane Society officer note there was no water present for these rabbits, the water was frozen over, there was ice, there was no food visible and there was no bedding present. The rabbits were also found to be

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5 in distress, they were removed from the residence. Next to the hutch area the animal control officers located a small fenced area described as being six feet long, four feet high and three feet wide. The side of it was a kitchen cupboard which was - which consisted of two one foot high sections. Upon entering the fenced area, Inspector Strooband looked inside the cabinet and found that there were three chickens within it on the bottom level. There was no food, no water, and no bedding within that area, the chickens appeared to be sitting on a (incomprehensible) pack and they were also found to be in distress and were removed. Environment Canada report that the temperature to be minus 10.8 degree Celsius and with the wind chill factor of minus 22 degrees Celsius. The wind was also blowing at 46 kilometres per hour north easterly direction. The hutch and chicken enclosure were facing southbound, the wind was blowing directly into the animal's area. On January 27th, 2014 Inspector Strooband met with Paul Burgio, residence of 39 Meadowbrook Crescent, St. Catharines. He advised that Inspector Strooband at that point that he was the caretaker for those five animals and that his relative is the owner of them. Mr. Burgio advised that he was looking after those animals while his relative was in Florida. He indicated he gave the animal daily care and that they had been in his possession for approximately a couple of months ago. The animals were subsequently inspected by a veterinarian doctor, Tanya Low L-O-W-R-E-Y from the Huntington Animal Hospital. She

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5 provided an opinion regarding the health of the animals, specifically the two rabbits who were ultimately euthanize due to the need for extensive care and the cost for rehabilitation as well as the potential for zoonotic disease hazard to staff and existing sheltered population. The chickens, the two chickens were eventually released to a sanctuary. Those are the facts relied upon for purposes of the plea.

10 THE COURT: Substantially correct, Mr. Burgio?

MR. BURGIO: Yes.

THE COURT: Anything you want to add to the facts?

MR. BURGIO: Umm, not too much, no.

15 J U D G M E N T

LACAPRARA, J. P. (ORALLY)

All right, I will accept the guilty pleas entered and convictions.

20 THE COURT: Submissions to penalty?

SUBMISSIONS BY MR. ISAK

THE COURT: You are recommending one year probation with what conditions?

25 MR. ISAK: With the statutory conditions on each of those two counts to be served concurrently,

THE COURT: That is on each count?

MR. ISAK: Correct.

THE COURT: Four hundred and fifty dollar restitution.

30 MR. ISAK: Four hundred and fifty eight dollars total, restitution to be Lincoln County Humane Society.

THE COURT: That is on both charges?

MR. ISAK: Yes in total..

THE COURT: That is each in total, right.

MR. ISAK: And then a ten year prohibition on the ownership of any rabbits and chickens.

THE COURT: Anything you want to say about that Mr. Burgio?

MR. BURGIO: If I can get a little bit of time to pay that?

THE COURT: How long do you need?

MR. BURGIO: Maybe a couple of months.

THE COURT: Do you want him to report to the Probation Officer, Mr. Isak?

MR. ISAK: I don't have any submissions to make with that - with respect to that specific condition, if Your Worship feels it appropriate in these circumstances, then I certainly would not be opposed to that.

THE COURT: All right, what that basically means is that you don't come back before the Court on the same charge. Do you understand that?

MR. BURGIO: Yeah, I know that.

THE COURT: All right, one year prohibition on count one, and half of the \$458.00 total for restitution, and a ten year prohibition and you having any rabbits or chickens. On count three, the same thing, one year probation period concurrent with count one, the other half of the \$458.00 restitution, two months to pay and a ten year prohibition, okay.

MR. BURGIO: Yeah.

THE COURT: So the other two counts, two and four?

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MR. ISAK: Withdrawn in light of Mr. Burgio's plea.

THE COURT: The other two counts against you are
withdrawn, all right. You are going to have to
wait for the papers.

MR. BURGIO: Okay.

THE COURT: Thank you.

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FORM 2
CERTIFICATE OF TRANSCRIPT
EVIDENCE ACT, subsection 5(1)


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I, Nicole D. Roy, certify that this document is a true and accurate transcription of the recording of R. vs. Paul Burgio In the Ontario Court of Justice, held at 71 King Street, St. Catharines, Ontario taken from the digital recording which has been certified in Form 1.

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 August 9, 2014

Dated


Nicole D. Roy
Certified Court Reporter

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