

SOUTH AFRICA / JUDGMENT

Appelgryn v S (A953/13) [2014] ZAGPPHC 256 (17 April 2014)

[2014] ZAGPPHC 256

COURT

North Gauteng High Court, Pretoria

BEFORE

Makhoba, Kollapen

CASE / FILE NUMBER

A953/13

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IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, PRETORIA

CASE

NO: A953/13

DATE

OF HEARING: 17 APRIL 2014

In

the matter between:

DIANNE
BARBRA
APPELGRYN APPELLANT
and
THE
STATE RESPONDENT

JUDGMENT

MAKHOBHA, AJ

[1] THE APPEAL

The Appellant pleaded guilty to one count of fraud on the 17th August 2012 in the Brakpan magistrate court and was found guilty as charged.

[2] THE CHARGE

The Appellant was sentenced to undergo twelve months imprisonment wholly suspended for four years on certain conditions.

In terms of section 103 (1) of Act 60 of 2000 Appellant was declared unfit to possess a firearm for the minimum period of ten years.

The appeal is solely against this order and it is not opposed by the Respondent.

[3] THE LAW

Section 103 (1) (g) of the Firearms control Act of 60 of 2000 reads as follows u

(1) Unless the court determines otherwise, a Person becomes unfit to possess a firearms if convicted of - (g) any offence involving

violence, sexual abuse or dishonesty, for which the accused is sentenced to a period of imprisonment without the option of a fine”

[4]

CONCLUSION

it is clear from the affidavit by the Appellant’s legal representative in the court a quo that in terms of section 103 (1) of the Firearms Act Appellant’s legal representative did not properly address court and did not take full instruction from the Appellant. As a result Appellant suffered prejudice in that Appellant was subsequently declared unfit to possess a firearm.

Appellant was a first offender. She pleaded guilty. There is no evidence that she is prone to violence. Appellant needs a licence to possess a firearm in order to be employed in the field of her profession namely security officer. It is my view that she should not have been declared unfit to possess a firearm.

[5] ORDER

I propose the following order:

The order by the court a quo declaring Appellant unfit to possess a firearm is set aside and is replaced by the following order:

1. In terms of section 103 (1) of the firearms control Act 60 of 2000 Appellant (Dianne Barbra Appelgryn) is not declared unfit to possess a firearm.

D MAKHOB

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA,

GAUTENG DIVISION. PRETORIA

I agree and it is so ordered

KOLLAPEN

JUDGE OF THE HIGH COURT OF SOUTH AFRICA

Representation for the Appellant:

Counsel

Mr M B Kgagara

Instructed by

Legal Aid South Africa - Pretoria

Representation for Respondent

Counsel

Adv: L Williams

Office of the Director of Public Prosecutions

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