

SOUTH AFRICA / JUDGMENT

Ngxongo v S (A115/13) [2013] ZAGPPHC 65 (21 February 2013) [2013] ZAGPPHC 65

COURT

North Gauteng High Court, Pretoria

BEFORE

MJ Teffo, AML Phatudi

CASE / FILE NUMBER

A115/13

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(NORTH GAUTENG HIGH COURT, PRETORIA)

HIGH COURT REF NO: 1209

CASE NO: T 13443/12

REVIEW NO: 21/12

CASE NO:A115/13

DATE:21/02/2013

In the matter between:

SIPHO NGXONGO ACCUSED

And

THE STATE RESPONDENT

SPECIAL REVIEW JUDGMENT

TEFFO J,

1. The accused was convicted and sentenced on a charge of contravening Sec 58(1) of Act 93 of 1996 for failing to comply with a direction of a road traffic sign to wit a no over taking marking (barrier line). He conducted his own defence and pleaded guilty to the charge. He was then convicted on 26 November 2012 following his plea.

2. The magistrate imposed a sentence of R2000-00 or 2 (two) months imprisonment wholly suspended for 3 (three) years on condition that the accused is not convicted of a similar offence during the period of suspension.
3. Sec 112(1) (a) of Act 51 of 1977 was applied correctly however Sec 112 (1) (a)(i) of Act 51 of 1977 prescribes competent sentences to be imposed. The Minister has determined the amount of R1500-00 for purposes of sec 112(1) (a) in the Government Gazette 24393 of 14 February 2003, Notice 239.
4. After having carefully read the record I am of the view that the sentence imposed exceeds the amount of R1500-00 and is therefore not a competent sentence as determined by the Minister in Government Gazette-24393 of 14 February 2003, Notice 239 referred to supra.
5. It is also my view that the conditions of the suspended sentence are not clear. The use of the word similar offence does not fall within the description of a competent sentence.
6. I am therefore satisfied that these proceedings were irregular and not in accordance with justice.

7. In the premise I make the following order:

7.1 The sentence imposed is accordingly set aside.

7.2 The matter is remitted to the court a quo for the imposition of a competent sentence.

MJ TEFFO J

JUDGE OF THE HIGH COURT (NORTH GAUTENG)

I agree

AML PHATUDI J

JUDGE OF THE HIGH COURT

(NORTH GAUTENG)

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