

SOUTH AFRICA / JUDGMENT

S v A.N (CA&R15/2018) [2018] ZAECHGC 3 (16 January 2018)

[2018] ZAECHGC 3

COURT

Eastern Cape High Court, Grahamstown

BEFORE

N G Beshe, JM Roberson

CASE / FILE NUMBER

CA&R15/2018

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IN THE HIGH COURT OF SOUTH AFRICA

(EASTERN CAPE DIVISION, GRAHAMSTOWN)

CASE NO.: CA&R15/2018

DELIVERED: 16 – 1 – 18

In the matter between:

THE STATE

And

A. N.

REVIEW JUDGMENT

BESHE J:

- [1] This is a special review pursuant to the provisions of Section 304 (4) of the Criminal Procedure Act 51 of 1977. The order that is sought is for the setting aside of the proceedings that took place before the Magistrate, East London in respect of this matter.
- [2] The accused together with another were arraigned in the East London Magistrates' Court on a charge of housebreaking with intent to steal and theft. They made their first appearance on the 17 April

2017. His age was given as nineteen (19) years in the charge sheet. Although bail was fixed at R500.00, only his co-accused paid the R500.00. After numerous postponements and separation of trials, accused's trial got underway on 19 October 2017, It was during the course of the trial that accused's legal representative informed the presiding officer that accused had informed her that he was a minor during an adjournment.

[3] The investigating officer followed up on the issue pertaining to accused's age and obtained copies of school records which

confirmed accused's date of birth as being the [...] 2000, which meant that he was seventeen (17) years old.

[4] The Child Justice Act[1] (the Act) is aimed at, inter alia, providing for special treatment of children in a child justice system that is designed to break the cycle of crime and to prevent children from being exposed to the adverse effects of the formal criminal justice system.[2]

[5] The Act applies to any person in the Republic who is alleged to have committed an offence and –

(a) was under the age of 10 years at the time of the commission of the alleged offence; or

(b) was 10 years or older but under the age of 18 years when he or she

(i)

(ii)

(iii) arrested in terms of section 20, for that offence.[3]

[6] The accused, by virtue of his age, falls to be dealt with in accordance with the Child Justice Act.

[7] Accordingly, the proceedings in respect of Case No A 5765/2017 are set aside.

The matter is remitted back to the Magistrates' Court, East London for the accused to be dealt with in terms of the provisions of the Child Justice Act, Act 75 of 2008.

N G BESHE

JUDGE OF THE HIGH COURT

ROBERSON J

I agree.

JM ROBERSON

[1] Act 75 of 2008.

[2] Section 2 (c) – (d) of the Act.

[3] Section 4 (1) (a) – (b) of the Act.

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