

SOUTH AFRICA / JUDGMENT

S v Brink (20160080) [2016] ZAECHGC 90 (22 September 2016) [2016] ZAECHGC 90

COURT

Eastern Cape High Court, Grahamstown

BEFORE

C. Plasket, J. D. Pickering

CASE / FILE NUMBER

20160080

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IN THE HIGH COURT OF SOUTH AFRICA

EASTERN CAPE DIVISION, GRAHAMSTOWN

REVIEW CASE NO: 20160080

DATE DELIVERED: 22/9/16

NOT REPORTABLE

In the matter between:

THE STATE

and

NICOLAAS JACOBUS BRINK

REVIEW JUDGMENT

PLASKET J

[1] This is a special review. The matter was referred to this court by magistrate M L Smith of the Magistrate's Court, Cradock who was conducting the accused's trial.

[2] The nub of the problem is stated in the following sentence in the magistrate's referral:

'The case came before me as a trial and the evidence of the first witness was already led when it came to my attention that the accused is the husband of one of the prosecutors who works with me on a regular basis.'

- [3] The magistrate requested that the proceedings be set aside because there arises from these facts a reasonable apprehension of bias. This would enable the trial to commence afresh before another magistrate.
- [4] The proceedings in the Magistrate's Court, Cradock in case number B330/2015 are set aside.

C. PLASKET

JUDGE OF THE HIGH COURT

I agree:

J. D. PICKERING

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