

SOUTH AFRICA / JUDGMENT

S v Dungan (39/2017, B222/686/2016, A99/2017) [2017] ZAGPPHC 174 (2 March 2017) [2017] ZAGPPHC 174

COURT

North Gauteng High Court, Pretoria

BEFORE

N Janse van Nieuwenhuizen, H J de Vos

CASE / FILE NUMBER

A99/2017

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IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, PRETORIA

A99/2017

2/3/2017

HIGH

COURT REVIEW NO: 39/2017

CASE

SERIAL NO:

8222/686/2016

REVIEW

REFERENCE NO. 1/4/13 JM -Rama

DATE:

22 February 2017

In

the matter between

THE

STATE

and

JABULO,

VUYO DUNGAN

REVIEW

JUDGMENT

JANSE VAN NIEUWENHUIZEN J

1. The accused was convicted in the Hatfield Magistrates Court of contravening section 1(1)(a) read with sections 1(1A), 1(2) and 2 of the Trespass Act 6 of 1959 ("the Act") and sentenced to a fine of R 4 000,00 or eight months imprisonment of which R 2 000.00 or four months imprisonment was suspended for a period of five years on

condition that the accused is not convicted of contravening section 1 or 2 of Act 6 of 1959 read with section 250(1)(d) of Act 51 of 1977 during the period of suspension.

2. The sentence imposed on the accused does not accord with the penalty provisions contained in section 2 of the Act. Section 2 provides for a fine not exceeding R 2000. 00 or a period of imprisonment not exceeding two years or both such fine and imprisonment.
3. In view of the aforesaid, the court a quo referred the matter to this court for a special review in terms of the provisions of section 304(4) of the Criminal Procedure Act. 51 of 1977.
4. Having had regard to the facts supra I am satisfied that the proceedings in the court a quo was not in accordance with justice and stands to be set aside.
5. In the premises. the following order is granted:

Order

The sentence of a fine of R 4 000. 00 or eight months imprisonment of which R 2 000. 00 or four months imprisonment is suspended for a period of five years on condition that the accused is not convicted of contravening section 1 or 2 of Act 6 of 1959 read with section 250(1)(d) of Act 51 of 1977 during the period of suspension is set aside and substituted with the following sentence:

"The accused is sentenced to a fine of R 2 000,00 or eight

- (8) months imprisonment of which R 1 000,00 or four months imprisonment is suspended for a period of five years on condition that the accused is not convicted of contravening section 1 or 2 of Act 6 of 1959 read with section 250(1)(d) of Act 51 of 1977 during the period of suspension."

N Janse van Nieuwenhuizen

Judge of the High Court of South Africa

Gauteng Division, Pretoria

I agree and it is so ordered

H J de Vos

Judge of the, High Court of South Africa

Gauteng Division, Pretoria

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