

SOUTH AFRICA / JUDGMENT

S v Guzu and Others (217029, 217031, 217029) [2016] ZAECMHC 39; 2017 (2) SACR 575 (ECM) (22 September 2016)

[2016] ZAECMHC 39

COURT

Eastern Cape High Court, Mthatha

BEFORE

RWN Brooks, B Majiki

CASE / FILE NUMBER

217029, 217031, 217029

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IN

THE HIGH COURT OF SOUTH AFRICA

(EASTERN

CAPE LOCAL DIVISION: MTHATHA)

REVIEW

NO: 217029;

217031;

217029

DATE:

22 SEPTEMBER 2016

In

the matters between:

THE

STATE.....APPLICA

NT

And

SIHLE

GUZU.....RESPONDEN

T

SIVIWE

MGIDI.....RESPONDENT

SAZISO

NOMBUYA.....RESPONDENT

REVIEW

JUDGMENT

BROOKS J:

- [1] Three matters emanating from the Magistrate's Court for the district of Dutywa have been placed before me on automatic review. In each there is a response from the magistrate to a query raised by one of my colleagues before whom the matters had served on automatic review previously. In each, the query sought clarity on the manner in which the sentence imposed had been expressed by the magistrate. In each, the response from the magistrate gives that clarity.
- [2] It is distressing to encounter errors in the manner in which sentences are expressed. Not only is it impossible for an unrepresented accused person to understand a sentence which is ill-expressed, but the record of that sentence cannot be altered simply by clerical amendment.
- [3] The imposition of sentence is a crucial part of court proceedings. It must be attended to with a level of care and attention to detail which is commensurate with the utmost level of diligence expected of a judicial officer in the performance of his or her official duties. Sloppiness in the manner in which a sentence finds expression not only leads to an undesirable state of uncertainty at the end of court proceedings; it also reflects badly on the judicial officer concerned and, indeed, upon the judiciary as a whole.
- [4] I have read the record in each of these three matters and I am satisfied that, but for the unacceptable confusion arising from the mistakes made in the expression of the sentence imposed by the magistrate, the proceedings are in accordance with justice.
- [5] In *State v Sihle Guzu*, case no B 475/2015, the sentence imposed by the magistrate is set aside and is replaced with the following:
- "1. The accused is sentenced to payment of a fine of R1000,00 or, in default of payment thereof, to a period of six (6) months imprisonment.*
2. The sentence imposed is wholly suspended for a period of five (5) years on condition that the accused is not convicted of assault with the intention to do grievous bodily harm arising from any offence committed during the period of suspension."
- [6] In *State v Siviwe Mgidi*, case no B 153/2016, the sentence imposed by the magistrate is set aside and is replaced with the following:
- 1`"1. The accused is sentenced to the payment of R500,00 or, in default of payment thereof, to a period of six (6) months imprisonment."
- [7] In *State v Saziso Nombuya*, case no B 131/2016, the sentence imposed by the magistrate is set aside and is replaced with the following:

“1. The accused is sentenced to the payment of a fine of R500,00 or, in default of payment thereof, to a period of four (4) months

imprisonment.

2. The sentence imposed is wholly suspended for a period of five (5) years on condition that the accused is not convicted of any offence arising from the possession by him of dagga without authority during the period of suspension.”

RWN BROOKS

JUDGE OF THE HIGH COURT.

MAJIKI J:

I agree.

B MAJIKI

JUDGE OF THE HIGH COURT

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