

SOUTH AFRICA / JUDGMENT

S v Hoffmeester (R347/2018) [2018] ZAFSHC 216 (24 December 2018)

[2018] ZAFSHC 216

COURT

Free State High Court, Bloemfontein

BEFORE

Musi

CASE / FILE NUMBER

R347/2018

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

IN

THE HIGH COURT OF SOUTH AFRICA,
FREE STATE DIVISION,
BLOEMFONTEIN

Review

No.: R347/2018

In

the review of:-

THE
STATE

And

RHENNYN

MAKAM HOFFMEESTER

CORAM:

MUSI, AJP

JUDGMENT

BY: MUSI, AJP

DELIVERED ON: 24 December 2018

- [1] This matter was referred on special review by the acting senior magistrate, Bloemfontein.
- [2] The accused was convicted of contravening section 4(b) of Act 140 of 1992 – possession of dagga. He was sentenced as follows:

“Today I consider R300 or 15 days, suspended for 3 years to be an appropriate sentence, which I will then suspend... is suspended

for 3 years on condition that you are not found guilty of contravention of section 4(b) Act 140 of 1992 during the period of suspension.”

- [3] The acting senior magistrate correctly points out that the condition of suspension is too wide and vague. If the accused is in future convicted for contravening section 4(b) of Act 140 of 1992 which was committed before he was convicted for this offence this suspended sentence could be put into operation.
- [4] The accused would obviously be prejudiced. The sentence ought to be amended.
- [5] The acting senior magistrate further requests that the conviction be set aside due to the decision of the Constitutional court in Minister of Justice and Constitutional Development v Prince (CCT108/18 [2018] ZACC 30.
- [6] This accused was sentenced on 12 September 2018. The Constitutional court judgment was delivered on 18 September 2018.

The order is clear and unambiguous that the qualified invalidity of section 4(b) is only with effect from the date of the handing down of the judgment of the Constitutional court.

- [7] The accused admitted that he possessed dagga. The weight thereof is of no moment.
- [8] The conviction is therefore in order and is confirmed.
- [9] The sentence is amended to read as follows:

R300.00 or 15 days imprisonment which is suspended for 3 years on condition that the accused is not convicted of contravening section 4(b) of Act 140 of 1992 committed during the period of suspension.

C. J. MUSI, J

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAFSHC/2018/216.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/s-v-hoffmeester-unknown-topic-afshc-2018>

Prepared on 11 October 2026 · Esheria