

SOUTH AFRICA / JUDGMENT

S v Jujuse (R15/2020) [2020] ZAFSHC 28 (13 February 2020)

[2020] ZAFSHC 28

COURT

Free State High Court, Bloemfontein

BEFORE

Mathebula, Molitsoane

CASE / FILE NUMBER

R15/2020

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IN

THE HIGH COURT OF SOUTH AFRICA,

FREE

STATE DIVISION, BLOEMFONTEIN

Review

number: R15/2020

In

the matter between:

THE
STATE
and
OLWETHU
JUJUSE

CORAM:

MATHEBULA,
J et
MOLITSOANE, J

JUDGEMENT

BY: MATHEBULA, J

DELIVERED ON: 13 February 2020

[1] The matter came to court by way of special review in terms of Section 304(4) of Act 51 of 1977. It appears that the reviewable errors were noted by the Senior Magistrate Welkom during a routine inspection.

[2] The accused, who was at all times legally represented, pleaded guilty to contravening Section 1(1)(a) of Act 6 of 1959. The proceedings were disposed of in terms of Section 112(2) of Act 51 of

1977. His sentence was recorded by the presiding magistrate as follows:-

“A fined of R4000 or 4 months imprisonment of which R2000 or 2 months imprisonment is suspended for a period of 5 years on count 2. In terms of Section 103 accused unfit to possess a firearm.”

[3] The recording of the sentence is the basis that led the learned Senior Magistrate to refer the matter to this court. He correctly stated that the conditions pursuant to a suspended sentence should be unambiguous and clear.

[4] The learned Senior Magistrate placed reliance on S v Hammond^[1] that the Presiding Magistrate has omitted the phrases in his judgement namely “committed within the period of suspension”

and “not again convicted of contravening section 1(1) of Act 6 of 1959 committed within the period of suspension.” I agree with him.

[5] The Presiding Magistrate also invoked the provisions of a certain Section 103 without a proper citation. This is another aspect to be corrected to obviate any ambiguity. Clearly he was referring to Section 103 of Act 60 of 2000 relating to the declaration of a person unfit to possess a firearm.

[6] The sentence imposed by the trial court is replaced with the following:-

6.1. Fined Four Thousand (R 4 000) or Four (4) months imprisonment of which Two Thousand (R 2000) or Two (2) months imprisonment is suspended for Five (5) years on condition that the accused is not convicted of contravening section 1(1) of Act 6 of 1959 (Trespassing) committed within the period of suspension. In terms of Section 103 of Act 60 of 2000 the accused is declared unfit to possess a firearm.

M. A. MATHEBULA, J

I concur

P. E. MOLITSOANE, J

[1] 2008 (1) SACR 476 (SCA)

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