

SOUTH AFRICA / JUDGMENT

S v Khambule (R07/2020) [2020] ZAFSHC 77 (13 March 2020)

[2020] ZAFSHC 77**COURT**

Free State High Court, Bloemfontein

BEFORE

M A Mathebula, P E Molitsoane

CASE / FILE NUMBER

R07/2020

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Source record**IN****THE HIGH COURT OF SOUTH AFRICA,****FREE****STATE DIVISION, BLOEMFONTEIN****Review****number: R07/2020****In****the matter between:**THE
STATE
and
LULAMA
KHAMBULE**CORAM:**

MATHEBULA, J et MOLITSOANE, J

JUDGEMENT**BY: MATHEBULA, J****DELIVERED ON: 13 MARCH 2020**

[1] The matter came to court by way of special review in terms of Section 304(4) of Act 51 of 1977. The review proceedings were initiated by the Acting Additional Magistrate, D van Rooyen during the routine checks of finalised cases.

[2] The accused was charged with contravening Section 59(4)(c) read with section 59(1)(b), 69(1), 73 and 89(1) of Act 96 of 1996. He pleaded guilty to the charge and his sentence was a fine of eight hundred rands (R800) or two (2) months imprisonment. His drivers

license was not suspended. It is apposite to mention that he was recorded driving a motor vehicle on the R730 public road near

Odendaalsrus at 143 kilometres per hour. This was measured over a distance of 487.5 metres. The speed limit on this public road is 100 kilometres per hour.

[3] The accused conducted his own defence. The learned magistrate omitted to deal with the aspect relating to the competency of the traffic operator to set up the speed measuring device. The questions asked by the court also do not indicate that the calibration certificate of the device was shown to the accused. It must be ascertained that the accused admits the elements of the offence as per the judgment of the full bench in this division.[1] To that extent the conviction is marred with irregularities.

[4] I make the following order:-

4.1 The conviction and sentence is reviewed and set aside.

--_____

M. A. MATHEBULA, J

I concur

P. E. MOLITSOANE, J

[1] S v Phuzi 2018 ZAFHC 213 (28 December 2018)

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