

SOUTH AFRICA / JUDGMENT

S v Mthethwa (A626/2012) [2012] ZAGPPHC 215 (4 September 2012) [2012] ZAGPPHC 215

COURT

North Gauteng High Court, Pretoria

BEFORE

N.P Mngqibisa-Thusi, N M Mavundla

CASE / FILE NUMBER

A626/2012

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IN

THE HIGH COURT OF SOUTH AFRICA

(NORTH

GAUTENG HIGH COURT, PRETORIA

Date:

04/09/2012

Case

Number:A626/2012

Supreme

Court Ref: 543

Magistrate's

Serial No: 05/2011

Review

Case No: 494/2010

In

the matter between:

THE

STATE

and

DAVID

ZITHI MTHETHWA Respondent

REVIEW

JUDGMENT

MNGQIBISA-THUSI J:

- [1] The accused was convicted on a charge of murder (read with the provisions of section 51(2), 52(2), 52A and 52B of the Criminal Law Amendment Act 105 of 1997) in the Barberton Regional Court.
- [2] When he was about to be sworn in for the proceedings on sentence, the accused claimed that he was Shona speaking and did not understand Swazi, the language he was sworn in. As a result, the proceedings were adjourned for review.
- [3] From the record it appears that throughout the proceedings were interpreted into isiSwazi, that he consulted with his legal

representative in isiSwazi and also gave evidence in isiSwazi. At no stage during the proceedings, up to the stage of the beginning of the proceedings on sentence, did the accused give an indication, either to his legal representative or to the court, that he did not understand the language in which the court proceedings were being interpreted.

- [4] On raising the language issue and being questioned by his legal representative and the court, he admitted that he understood the proceedings from the beginning up until when he raised the language issue. He stated that the only word he did not understand was "swear" when interpreted into isiSwazi. However, he immediately changed and said that there were some words used during the proceedings which he did not understand.
- [5] Having read the record of the proceedings as is, I am satisfied that the accused understood the language in which the proceedings were conducted. It appears that he pleaded in isiSwazi, testified in isiSwazi and as confirmed by his legal representative, Mr Maphanga, also consulted with him in isiSwazi. The accused himself also admits that he did not inform his legal representative that he is Shona speaking.
- [6] Bearing in mind that an accused person has the right to be tried in the language of his choice, I am satisfied that there was no irregularity in these proceedings.
- [7] Accordingly. I would recommend that the following order be and is made:

"I am satisfied that it appears that the proceedings were in accordance with justice".

N.P Mngqibisa-Thusi

Judge of the High Court

North Gauteng High Court

I agree and it is so orderd

N M MAVUNDLA

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