

SOUTH AFRICA / JUDGMENT

S v Qacha (601/2009) [2010] ZAFSHC 115 (12 August 2010) [2010] ZAFSHC 115

COURT

Free State High Court, Bloemfontein

BEFORE

C B CILLIÉ, A S BOONZAAIER

CASE / FILE NUMBER

601/2009

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FREE STATE HIGH COURT, BLOEMFONTEIN

REPUBLIC OF SOUTH AFRICA

Case No.: 601/2009

In the matter between:

THE STATE

and

QACHA PINKI

CORAM: CILLIÉ, J et BOONZAAIER, AJ

JUDGEMENT:

CILLIÉ, J

DELIVERED ON: 12 AUGUST 2010

- [1] The accused in this matter, a Lesotho citizen, pleaded guilty to a contravention of section 49(1)(a) of the Immigration Act No. 1 of 2002 by entering the Republic without the necessary permit or other documents.
- [2] The state accepted the plea and requested the court to proceed in terms of section 112(1)(a) of the Criminal Procedure Act No 51 of 1977. No interrogation by the court followed and the accused was forthwith convicted. He was thereupon sentenced to a fine of R2 000,00 or 4 months imprisonment.

- [3] When the matter was submitted for review the following enquiry was directed to the magistrate:

“Can the magistrate impose a fine exceeding R1500 if section 112(1)(a) procedure (i.e. no questioning of the accused) is followed? My impression is that G.N. R239 of Government Gazette 24393 of 14 February 2003 sets the upper limit when this procedure is followed at R1500.”

- [4] The magistrate responded as follows:

“1. I have noted that I erred in exceeding the prescribed fine of R1500-00 following section 112(1)(a) of Act 51/77 procedure and I humbly submit that was a mistake and oversight on my part.”

- [5] It is clear that the sentence should be amended so that it corresponds with the Act.

- [6] The following order is therefore made:

The conviction is confirmed but the sentence imposed by the magistrate is set aside and substituted by the following:

A fine of R150000 or four months imprisonment if the fine is not paid.

C. B. CILLIÉ, J

I concur.

A. S. BOONZAAIER, AJ

/eb

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