

SOUTH AFRICA / JUDGMENT

S v Thameng and Others (178/2014)

[2014] ZAFSHC 165 (9 October 2014)

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COURT

Free State High Court, Bloemfontein

BEFORE

A.F. Jordaan, M.H. Rampai

CASE / FILE NUMBER

178/2014

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IN THE HIGH COURT OF SOUTH AFRICA

FREE STATE DIVISION, BLOEMFONTEIN

Review No. : 178/2014

DATE: 09 OCTOBER 2014

In the review between:-

THE STATE

Versus

RODNEY THAMENG.....Accused 1

JAMES PHEPHENG.....Accused 2

ISAAC KGATOE.....Accused 3

NDOKWANE MOHATELE.....Accused 4

CORAM: RAMPAI, AJP et JORDAAN, J

JUDGMENT BY: JORDAAN, J

DELIVERED ON: 9 OCTOBER 2014

[1] This matter was brought to the attention of this court by the senior magistrate of Welkom in terms of section 304(4) of the Criminal Procedure Act, No 51 of 1977.

[2] All the accused were charged with contravention of section 2 of the Stock Theft Act, No 57 of 1959, namely being in possession of suspected stolen stock without giving an acceptable explanation for such possession.

- [3] They all pleaded guilty and submitted written statements concerning the basis of their pleas in terms of section 112(2) of the Criminal Procedure Act. They were then convicted and sentenced in the magistrate's court, in regard to all of them to a fine of R2 000,00 or 3 (three) months imprisonment wholly suspended for a period of five years on condition that the accused is not convicted of the contravention of Act 57 of 1959, committed during the period of suspension.
- [4] The learned senior magistrate who sent the matter for special review was of the correct opinion that the conditions of suspension were totally vague and not legally tenable. He suggested that, if this court is satisfied with the convictions, the sentence should be altered to make provision for specific conditions of the suspended sentence.
- [5] It goes without saying that the learned senior magistrate is quite correct and that the condition of suspension as set out in the sentence, is too vague and covers about all of the criminal acts provided for in the aforesaid Act. It is not only too vague and unspecific, but most definitely prejudicial to the aforesaid four accused.
- [6] I am satisfied that the conviction, based on the statements of the different accused, is in order as far as each of the accused is concerned and can be confirmed.
- [7] In the result the following orders are made:
1. The convictions of all accused are confirmed.
 2. The sentence in regard to each of the accused are set aside and replaced with the following:
"A fine of R2 000,00 or 3 (three) months imprisonment wholly suspended for a period of five years on condition that the accused is not convicted of contravention of section 2 of Act 57 of 1959 committed during the period of suspension."
 3. The remainder of the proceedings are confirmed.

A.F. JORDAAN, J

I concur.

M.H. RAMPAL, AJP

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