

SOUTH AFRICA / JUDGMENT

S v Tono (R1/2020) [2020] ZAFSHC 13 (29 January 2020) [2020] ZAFSHC 13

COURT

Free State High Court, Bloemfontein

BEFORE

Opperman, Naidoo

CASE / FILE NUMBER

R1/2020

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Source record

THE
HIGH COURT OF SOUTH AFRICA
FREE
STATE PROVINCIAL DIVISION
Case
No: R1/2020

In the matter between:

THE
STATE
And
MONICA
TONO

Coram:

NAIDOO, J
et OPPERMAN,
J

Delivered:

29 January 2020

Judgment:

Opperman, J

JUDGMENT

[1] The matter was submitted to this court in terms section 304A of the Criminal Procedure Act 51 of 1977 for special review. The accused pleaded guilty in terms of section 112(2) of the Criminal Procedure Act 51 of 1977. She was convicted of the contravention of section 50(1) read with sections 1 and 50(3) of the Child Care Act 74 of 1983. The court, after conviction but before sentence, realised that the Child Care Act of 1983 was repealed in terms of section 313 of the Children's Act 39 of 2005.

[2] The realisation of the presiding officer is indeed correct since the Child Care Act 74 of 1983 was repealed as a whole on 1 April 2010 as per the fourth item in Schedule 4:

“313. Amendment of laws - The laws referred to in the second column of Schedule 4 are hereby amended to the extent indicated in the third column of the Schedule.

(Date of commencement of s. 313: 1 July, 2007. Date of commencement of the laws referred to in the second column of Schedule 4 are as follows: The second, third, fifth, seventh and ninth items: 1 July, 2007 and the first, fourth, sixth and eighth items: 1 April, 2010.)”

[3] Reading of the record convinces that the only remedy for the dilemma is to set the conviction aside and remit the matter for trial de novo.

[4] Peripherally and related to the law that reviews must be dealt with expeditiously, it was noticed that the conviction was on 23 September 2019, the referral letter dated 28 October 2019 and the matter only delivered to the Registrar of the High Court: Free State on 8 January 2020. Meticulous care must be taken to avoid delays of this kind.

[5] Order

The conviction is set aside and the matter is remitted for trial de novo.

M OPPERMAN, J

I concur

S NAIDOO, J

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