

SOUTH AFRICA / JUDGMENT

S v Van Bontes (320/17) [2017] ZAGPPHC 885 (31 October 2017)

[2017] ZAGPPHC 885

COURT

North Gauteng High Court, Pretoria

BEFORE

C J Van der Westhuizen, H De Vos

CASE / FILE NUMBER

320/17

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

HIGH COURT CASE NO.: 320/17

CASE NO.: RC5/82/14

MAGISTRATE'S SERIAL NO: 4/14

31/10/17

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

REVISED.

In the matter between:

THE STATE

and

JACKSON VAN BONTES

SPECIAL REVIEW

VAN DER WESTHUIZEN, A J

[1] The honourable Trial Magistrate of the Magistrate's Court, Klerksdorp, requested, in terms of the provisions of s 108 of the

Magistrate's Court Act, 32 of 1944 (the Act), that the sentence of 6 (six) months imprisonment imposed upon Jackson van Bontes be considered on special review.

[2] The salient facts are the following:

- (a) On 18 July 2017, after a summary investigation in terms of s 108(1) of the Act, the said Jackson van Bontes was convicted of contempt of court and sentenced to 6 (six) months imprisonment;
 - (b) The summary investigation arose from an altercation in court between the said van Bontes and other co-accused whilst the court was in session hearing another matter for the purposes of postponement. The said van Bontes, on entering the court, attempted to stab a co-accused in their matter that was to be heard subsequent to the matter that was in the process of being postponed. The said van Bontes had a homemade knife in his possession, having brought it with him from the holding cells. The court orderlies and personnel from Correctional Services were obliged to intervene and to control the situation;
 - (c) The said altercation posed a serious risk to co-accused of the said van Bontes, other accused in the matter being postponed, attorneys in court and other court personnel in close proximity of the said van Bontes;
 - (d) All in close proximity of the said van Bontes were obliged to hastily move away, thus causing a huge ruckus in court and disrupting the proceedings;
 - (e) The honourable Magistrate found that the conduct of the said van Bontes to be contemptuous, dangerous, totally disruptive and displaying a total disregard and disrespect for the court that could not be ignored;
 - (f) Following on the summary investigation the said van Bontes was held in contempt and sentenced to 6 (six) months imprisonment.
- [3] The Office of the Director of Public Prosecutions was approached for its comment on the sentence imposed upon the said van Bontes. That office submitted its comment in writing and it is commended for the prompt submissions provided.
- [4] The Senior State Advocate tasked with providing comments submitted that the conduct of the said van Bontes not only impacted on the dignity of the court, but also constitutes other serious charges that the said van Bontes can separately be charged with. In view thereof, it is further submitted that the sentence to be imposed must reflect the severity of disgracing the court, however should not reflect the severity of the possible assault and/or murder charges that may follow the aforementioned attack on a co-accused.
- [5] The State Advocate submits and proposes that in view thereof that the said van Bontes has already served three months of his sentence, that the sentence be set aside and replaced with a sentence of three months' imprisonment, to be ante dated to the date of the sentence.

- [6] Further in this regard, the State Advocate relies upon S v Mitchell 2011(2) SACR 182 (ECP) with specific reference to paragraph [9] thereof. I agree with the submissions and proposal of the Office of Public Prosecutions.
- [7] It follows that the sentence imposed by the honourable Magistrate stands to be reconsidered, set aside and replaced with a lesser sentence.
- [8] I propose that the sentence imposed upon the said van Bontes be replaced with a sentence of 3 (three months) imprisonment, ante dated to the date of sentence, i.e. 18 July 2017.

C J VAN DER WESTHUIZEN

C J VA ACTING JUDGE OF THE HIGH COURT

I agree and it is so ordered.

H DE VOS

JUDGE OF THE HIGH COURT

DATE: 31 OCTOBER 2017

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