

SOUTH AFRICA / JUDGMENT

S v Vusi (06/2015) [2015] ZAFSHC 90 (29 April 2015) [2015] ZAFSHC 90

COURT

Free State High Court, Bloemfontein

BEFORE

A. Williams, C. Van Zyl

CASE / FILE NUMBER

06/2015

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IN

THE HIGH COURT OF SOUTH AFRICA

FREE

STATE DIVISION, BLOEMFONTEIN

Review

Number : 06/2015

In the

review between:

THE
STATE
and
MPEYI
TRESSURE VUSI

CORUM:

WILLIAMS, AJ et
VAN ZYL, J**JUDGMENT**

BY: WILLIAMS, AJ

DELIVERED ON: 29 APRIL 2015

- [1] This matter came before me on automatic review in terms of section 302 read with section 304 of the Criminal Procedure Act, 51 of 1977, (“the CPA”). The accused was charged in the Bloemfontein Magistrate’s Court on 15 October 2014 on a charge of dealing in an undesirable dependence producing substance to wit dagga in terms of the Drugs and Drug Trafficking Act 140 of 1992. The alternative charge was being in possession thereof.

- [2] The accused pleaded guilty to the main charge. He was thereupon convicted and sentenced to a fine of R4 000,00 (FOUR THOUSAND RANDS) or 8 months' (EIGHT MONTHS') imprisonment which sentence was wholly suspended for a period of five years on condition that the accused is not convicted of contravention of the provisions of section 5(b) of Act 140 of 1992 during the period of suspension. In terms of section 5 of the said Act, the dagga was forfeited to the State.
- [3] A query was directed to the presiding officer by Reinders, AJ, as he was of the view that the record might be incomplete. He was neither satisfied that the accused had pleaded guilty in terms of section 112 (1)(a) of the CPA, as he was not questioned by the Magistrate in terms of section 112(1)(b) of the CPA. Reinders, AJ further queried whether the sentence was competent with reference to *S v Tolmay* 1980(1) SA 182 NL.
- [4] The presiding officer supplied this court with his comments and conceded that his questions did not cover all the essential elements to sustain the conviction.
- [5] ORDER:

On the presiding officer's request, the following orders are made:

1. The entire proceedings are set aside.
2. The matter is remitted to the Magistrate's Court, Bloemfontein for a trial de novo.
3. The accused is to be informed about the alteration of his conviction.

A. WILLIAMS, AJ

I concur:

C. VAN ZYL, J

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