

SOUTH AFRICA / JUDGMENT

S v Wiese (61/2013) [2013]

ZAFSHC 80 (23 May 2013)

[2013] ZAFSHC 80

COURT

Free State High Court, Bloemfontein

BEFORE

P C F Van Rooyen, J P Daffue

CASE / FILE NUMBER

61/2013

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FREE STATE HIGH COURT, BLOEMFONTEIN

(REPUBLIC OF SOUTH AFRICA)

REVIEW NO: 61/2013

In the matter between:-

THE STATE

and

RIAAN WIESE

CORAM:DAFFUE, J et VAN ROOYEN, AJ

JUDGEMENT BY:VAN ROOYEN AJ

DELIVERED ON: 23 MAY 2013

[1] This is an automatic review. The accused was charged in the Magistrate's Court, Bloemfontein for negligent driving of a Toyota Bakkie, registration number PJB 153 GP. He pleaded guilty, as charged of negligent driving and sentenced to pay a fine of R2 000,00 or to undergo imprisonment for a period of six months.

[2] The review was initially referred to Bloem AJ who directed the following enquiries to the Presiding Magistrate:

"The accused pleaded guilty. He said the following in his plea explanation:

1 He was driving his vehicle along Jan Spies and Karl Kielblock Street, Bloemfontein on 29 May 2010.

He was on his way to a friend. He was alone in his vehicle.

It was approximately 10h00. The road was dry.

He wanted to turn left when another vehicle, coming from the right, turned sharply. The accused did not see that vehicle. The

accused's vehicle collided with the other vehicle from behind.

At the time the accused drove slowly- approximately 30 km/h.

No one was injured in the collision. There was no serious damage to the other vehicle. The accused's vehicle was not damaged.

In the absence of facts, to show that a reasonable person in the position of the accused would have foreseen the possibility of an

accident occurring, that a reasonable person would have taken steps to avoid the accident and that the accused failed to take those

steps, on what factual basis did the Magistrate convict the accused?"

[3] To this enquiry the Magistrate gave reasons:

"I concede to the fact that there was no facts to show that a reasonable person in the position of the accused could have foreseen the possibility of an accident occurring, that a reasonable person would have taken steps to avoid the accident occurring, that a reasonable person would have taken steps to avoid the accident and that the accused conduct thus conform to that of a reasonable person."

I humbly request the Honourable Judge to set aside the conviction and sentence."

I have read the record and I am satisfied that the conviction and sentence cannot stand and should be set aside.

ORDER:

Therefore the following order is made:

The conviction and sentence of the accused are set aside.

P C F VAN ROOYEN, AJ

I concur.

J P DAFFUE, J

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