

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG NORTH DIVISION, PRETORIA

A172/15
12/3/15
Case No: R 122/2015

LA 1216/2014

In the matter between:

THE STATE

versus

MARY MAFUKIDZI

Accused

REVIEW JUDGMENT

1. The accused was charged with theft of four pairs of trousers in the Magistrate's Court for Soutpansberg, held at Louis Trichardt (Makhado). Her first appearance was on the 12th December 2014 when she pleaded not guilty.
2. The case was remanded to the 30th December 2014 for trial but was postponed again for a Shona interpreter. At the next trial date on the 5th January 2015 the accused's husband arranged for the payment of an admission of guilt fine, apparently through the good offices of the interpreter. An admission of guilt fine was determined and paid, and the necessary

particulars were recorded on the official J 175 form. The prosecutor signed the form, not realising that the accused had already pleaded to the charge.

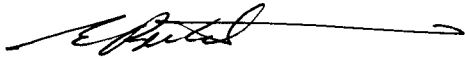
3. The matter is further complicated by the fact that the accused is a Zimbabwean citizen who has apparently been deported since the above occurrences took place.
4. The State - and not the presiding officer – has now, after the matter was called in court again and the procedural problem was discovered, placed the matter before a Judge in Chambers for review. Nothing should turn on the fact that the matter has been presented for review in this fashion.
5. An admission of guilt fine can only be paid after the accused's appearance in court if the accused has not yet pleaded to the charge, as determined by section 57A of the Criminal Procedure Act 51 of 1977. Once the accused has pleaded to the charge the court must deal with trial that has formally commenced upon a plea being entered.
6. The acceptance of the fine therefore constituted an irregularity.
7. The State in its submission of this matter for review has requested that the plea proceedings be set aside and that, by implication, the payment of the admission of guilt fine be regarded as proper to bring finality to the matter. This request cannot be acceded to. Only an irregularity can be corrected on review. The only irregularity is the acceptance of the fine.

The following order is therefore made:

1. The admission of guilt fine accepted in this matter is set aside;
2. The fine must be repaid to the accused or her duly authorised representative;

3. The trial proceedings that commenced with the accused's plea of not guilty must be concluded in accordance with the provisions of the Criminal Procedure Act 51 of 1977.

Dated at Pretoria on this 6th day of March 2015.



E BERTELSMANN

Judge of the High Court

I agree.



Judge of the High Court.
F. G. PRELLER.