

A287/15

IN THE GAUTENG DIVISION OF THE HIGH COURT, PRETORIA

(REPUBLIC OF SOUTH AFRICA)



4/5/15.

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: YES/NO
- (2) OF INTEREST TO OTHER JUDGES:
YES/NO
- (3) REVISED
DATE: 28 April 2015
- SIGNATURE: *Jansen*

HIGH COURT REFERENCE NO. : 819/2014

MAGISTRATE'S SERIAL NO. : 03/2014

REVIEW CASE NO. : 570/2014

THE STATE v ALEC CONRADIE

SPECIAL REVIEW JUDGMENT

JANSEN J

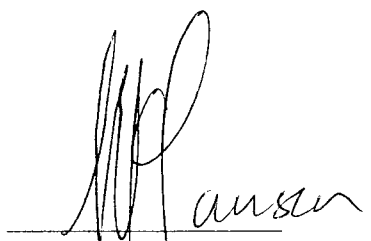
- [1] This matter was referred to me as a special review by ML van Loggerenberg, acting magistrate of Ventersdorp.
- [2] The accused, on the 6th of October 2014, pleaded guilty to a breach of section 59(4)(b) of Act 93 of 1996, namely exceeding the applicable speed limit. Section 112(2) of Act 51 of 1977 was duly complied with.
- [3] The accused was sentenced to R1000.00 (a thousand rand) or six months' imprisonment plus an additional six months' imprisonment suspended for four years on condition that he was not convicted again of breaching section 59(4)(b) of Act 93 of 1996 and, if so found guilty, a direct sentence of imprisonment would be imposed without the option of a fine.
- [4] The accused's licence was not endorsed, revoked or suspended.
- [5] The acting magistrate admits freely to explaining to the accused his rights of appeal, but not his rights pertaining to review. He realised it soon afterwards and tried to contact the accused in vain. Hence this special review.
- [6] Given that *bona fide* mistakes do occur and given the acting magistrate's prompt conduct in forwarding the record and seeking a special review, his omission is condoned.

- [7] The acting magistrate also furnished cogent reasons why the review was sent late. His explanation is accepted and the non-compliance for the period within which the record should have been forwarded is condoned.
- [8] Yet another problem arose. The invoice which was alleged to be that of the accused (who paid the fine of R1000.00) refers to a certain AJ Fourie and bears another case number. The accused in this matter is a Mr Alec Conradie. The acting magistrate requests that this inaccuracy be rectified. It is not clear how this mistake arose. Furthermore, it is accepted, as stated by the acting magistrate, that Mr AJ Fourie paid a fine of R500.00 only, whereas Mr Conradie paid R1000.00 and this amount should be reflected in the invoice.
- [9] The acting magistrate also states that the sentence is too harsh and requests that the suspended part of the sentence be omitted. (The acting magistrate states that without the suspended part of the sentence it would not have been reviewable as he has been performing the duties of a magistrate since 1991.)
- [10] The acting magistrate further requests that the accused be informed of the lesser sentence. He requests that this be done by handing a copy of this judgment to the accused.

In the result, the following order is made: —

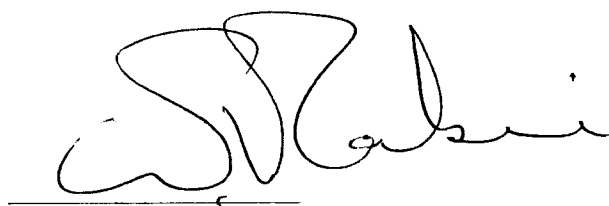
- [11] The sentence imposed by the acting magistrate is set aside and the following order is made: —

1. The accused is ordered to pay a fine of R1 000.00 (one thousand rand) or to serve a six month period of imprisonment.
2. The clerk of the Ventersdorp magistrate's court is ordered to correct the invoice made out to the accused to reflect his name, Alec Conradie, correctly, as well as the correct case number and the amount paid by him, namely R1 000.00.
3. The records of the Ventersdorp magistrate's court must be amended accordingly.
4. This judgment and the corrected invoice must be handed personally to the accused.

A handwritten signature in black ink, appearing to read 'Jansen', written over a horizontal line.

JANSEN J
JUDGE OF THE HIGH COURT

I agree

A handwritten signature in black ink, appearing to read 'Rabie', written over a horizontal line.

RABIE J
JUDGE OF THE HIGH COURT