

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

(NORTH GAUTENG, PRETORIA)

A301/2015
12/15/15

REVIEW CASE NO: A216/2013

(1) REPORTABLE: ~~YES~~ / NO

(2) OF INTEREST TO OTHER JUDGES: YES/~~NO~~

.....
DATE

.....
SIGNATURE

THE STATE

VS

MUZAWUPHELI JIKITYALA

REVIEW JUDGMENT

KUBUSHI, J

[1] This is a special review in terms of s 304 of the Criminal Procedure Act 51 of 1977. The matter was placed before this court by the acting magistrate of the magistrate's court Oberholzer, M Hattingh, with a request that the sentence imposed be rectified.

[2] The accused in this matter was charged with the possession of stolen property in terms of s 36 of the General Law Amendment Act 62 of 1955. He pleaded guilty and the trial court found him guilty as charged.

[3] The following sentence was meted by the trial court:

"You are fined R1 500 or 90 days' imprisonment which are suspended for five years on condition that you not be convicted of theft committed during the period of suspension."

[4] The sentence as stated is clearly wrong and was a *bona fide* error as the acting magistrate has also realised. It should, therefore, be rectified.

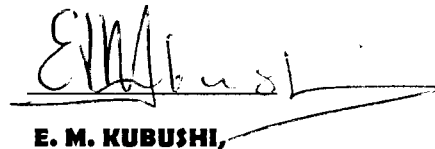
[5] As this is a technical oversight it is unnecessary to remit this matter to the trial court and instead this court is better positioned to correct such error and reword the sentence appropriately.

[6] In the circumstances I consider that the following order should issue:

1. The conviction is confirmed.
2. The sentence imposed on 19 March 2015 is hereby set aside and substituted with the following:

"1. The accused is sentenced to a fine of R1 500 (One Thousand Five Hundred Rand) or 90 (ninety) days imprisonment which is wholly suspended for 5 five years on condition that the accused is not convicted of a contravention of section 36 of the General Law Amendment Act 62 of 1955 committed during the period of suspension.

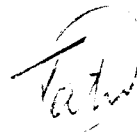
2. In terms of section 103 (2) of the Firearms Act 60 of 2000 the accused is declared unfit to possess a firearm."



E. M. KUBUSHI,

JUDGE OF THE HIGH COURT

I concur and it is so ordered



T.M. MAKGOKA

JUDGE OF THE HIGH COURT