

IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Review No: 211/2014

In the matter between:-

THE STATE

and

ANDREW VERNON YORK

JUDGMENT BY: VAN DER MERWE, J

DELIVERED ON: 4 DECEMBER 2014

[1] This matter was referred to this court for special review with the request that the conviction and sentence be set aside.

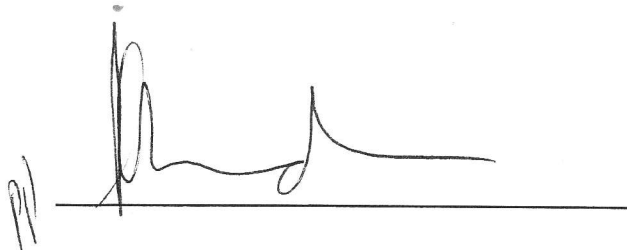
[2] In terms of a summons served on the accused in terms of s 54 of the Criminal Procedure Act 51/1977, the accused was charged in the magistrates' court in Bloemfontein with *crimen iniuria*. An admission of guilt fine in the amount of R300.00 was determined and paid by the accused. In the result the accused is in terms of

section 57(6) of the Act deemed to have been convicted and sentenced by that court.

[3] The documents were examined in terms of s 57(7) of the Act and the Magistrate did not set aside the conviction and sentence. The magistrates' court of Bloemfontein therefore also became *functus officio*.

[4] The accused subsequently filed an affidavit stating that he sought advice before he paid the admission of guilt fine and that he was informed that payment thereof would not result in a criminal record. He states that he did not intend to plead guilty to the crime and that he only paid the admission of guilt fine to get rid of the case in the light of the advice that he received. He says that he would not have paid the fine had he been properly advised. In the consequence there is a reasonable doubt as to the correctness of the conviction.

[5] The conviction and sentence are set aside.

A handwritten signature and the initials 'P/1' are written above a horizontal line. The signature is a cursive script, and the initials 'P/1' are written to the left of the signature.

C H G VAN DER MERWE, J

I concur.

A. Murray.

H MURRAY, AJ