

A626/2012

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH GAUTENG HIGH COURT, PRETORIA)

4/9/2012

Date: ~~15 AUGUST 2012~~

Supreme Court Ref: 543

Magistrate's Serial No: 05/2011

Review Case No: 494/2010

In the matter between:

THE STATE

and

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES/NO.	
(2) OF INTEREST TO OTHER JUDGES: YES/NO.	
(3) REVISED.	
15/08/2012	
DATE	SIGNATURE

DAVID ZITHI MTHETHWA

Respondent

REVIEW JUDGMENT

MNGQIBISA-THUSI J:

- [1] The accused was convicted on a charge of murder (read with the provisions of section 51(2), 52(2), 52A and 52B of the Criminal Law Amendment Act 105 of 1997) in the Barberton Regional Court.
- [2] When he was about to be sworn in for the proceedings on sentence, the accused claimed that he was Shona speaking and did not understand Swazi, the language he was sworn in. As a result, the proceedings were adjourned for review.
- [3] From the record it appears that throughout the proceedings were interpreted into isiSwazi, that he consulted with his legal representative in

isiSwazi and also gave evidence in isiSwazi. At no stage during the proceedings, up to the stage of the beginning of the proceedings on sentence, did the accused give an indication, either to his legal representative or to the court, that he did not understand the language in which the court proceedings were being interpreted.

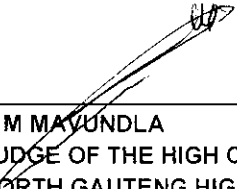
- [4] On raising the language issue and being questioned by his legal representative and the court, he admitted that he understood the proceedings from the beginning up until when he raised the language issue. He stated that the only word he did not understand was "swear" when interpreted into isiSwazi. However, he immediately changed and said that there were some words used during the proceedings which he did not understand.
- [5] Having read the record of the proceedings as is, I am satisfied that the accused understood the language in which the proceedings were conducted. It appears that he pleaded in isiSwazi, testified in isiSwazi and as confirmed by his legal representative, Mr Maphanga, also consulted with him in isiSwazi. The accused himself also admits that he did not inform his legal representative that he is Shona speaking.
- [6] Bearing in mind that an accused person has the right to be tried in the language of his choice, I am satisfied that there was no irregularity in these proceedings.
- [7] Accordingly, I would recommend that the following order be and is made:

"I am satisfied that it appears that the proceedings were in accordance with justice."



N.P. MNGQIBISA-THUSI
JUDGE OF THE HIGH COURT
NORTH GAUTENG HIGH COURT

I agree and it is so order^d



N.M. MAYUNDLA
JUDGE OF THE HIGH COURT
NORTH GAUTENG HIGH COURT