

VRYSTAATSE HOË HOF, BLOEMFONTEIN
REPUBLIEK VAN SUID-AFRIKA

Hersiening Nr. : 618/2010

In die hersiening tussen:-

DIE STAAT

versus

MALIBONGWE DUZE

UITSPRAAK DEUR: WRIGHT, R

GELEWER OP: 6 JANUARIE 2011

[1] 'n Skrywe is ontvang vanaf die streekshoflanddros te
Welkom gedateer 13 Desember 2010 wat soos volg lui:

- “1. Attached hereto please find the transcribed record of the abovementioned Regional Court Case.
2. Attached also please find comments by the preciding acting Regional Magistrate, Mr. Rampersad.
3. It is my respectful submission that the sentence imposed is vague and confusing. Apart thereof the sentence had apparently been altered by the preciding officer as set out in his comments.
4. Although the accused had been found guilty of attempted murder as charged, after he pleaded guilty, there is no

indication that he in fact intended to murder the complainant, but only admitted that he had the intention to injure the complainant.

5. It is submitted that the oversight could be attributed to a lack of experience on the part of the presiding officer.
6. After consultation with the Regional Court President, Mr Lalbahadur, it was suggested that the matter be brought to the attention of a Judge of the Free State High Court, for possible intervention in terms of the provisions of section 304(4) of the Criminal Procedure Act, act 51 of 1977.
7. It is therefor respectfully suggested that the conviction and sentence be set aside and that the matter be referred back for a **de novo** trial before another presiding officer.”

[2] Dit is duidelik uit die bestudering van die stukke en spesifiek die beskuldigde se pleit dat hy nie skuldig gepleit het aan poging tot moord, waaraan hy skuldig bevind is, en dat die skuldigbevinding om dié rede alleen tersyde gestel moet word. Dit sal uiter aard tot gevolg hê dat die vonnis ook tersyde gestel moet word,

[3] Bygevolg word die skuldigbevinding en vonnis ooreenkomstig die bepalings van artikel 304(4) van Wet 51

van 1977 tersyde gestel en word daar gelas dat die saak terugverwys word na die betrokke hof vir 'n verhoor *de novo* voor 'n ander voorsittende beampte.

G.F. WRIGHT, R

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