

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Review No. 189/2010

In the review between:

THE STATE

versus

THAMI NTLATHI

CORAM: BOONZAAIER, AJ *et* WRIGHT, J

JUDGMENT BY: BOONZAAIER, AJ

DELIVERED ON: 26 MAY 2010

- [1] This matter came before me on automatic review in terms of section 302 read with section 304 of the Criminal Procedure Act, 51 of 1977, (“the CPA”). The accused were charged in the Bloemfontein Magistrate’s Court on 23 April 2010 with dealing in an undesirable dependence producing substance to

wit dagga. (The alternative charge being possession or use of dagga.)

[2] The State withdrew the main charge against the three accused persons, but proceeded with the charge of the contravention of section 4 (b) read with sections, 13(d), 17(d), 18,19, 20 and 64 of the Drugs and Drug Trafficking Act, 140 of 1992, (“the Drug Trafficking Act “), for being in possession of or the use of 760 grams of dagga.

[3] Accused number 1, (the only accused in this review) pleaded guilty and accused persons number 2 and 3 pleaded not guilty.

Accused number 1 was then convicted as charged and sentenced to R4 000,00 (four thousand rand) or 12 (twelve) months imprisonment of which R2 000,00 (two thousand rand) or 6 (six) months imprisonment is suspended for a period of 5 (five) years on condition that the accused is not again

convicted of contravening section 4 (b) Act 140 of 1992 committed during the period of suspension. The dagga was forfeited to the State. Accused was declared unfit to possess a firearm.

[4] A query was directed to the presiding officer as I was of the view that the order that the accused is unfit to possess a firearm was not in order. Section 103(1) (k) of Act 60 of 2000 does not permit of that.

[5] The presiding officer supplied me with his comments and conceded that as the accused was convicted of the possession of dagga only an order declaring him unfit to possess a firearm was not permissible.

[6] ORDER:

1. The order that the accused is unfit to possess a firearm is set aside

2. The accused is to be informed about the alteration of the sentence.

A. S. BOONZAAIER, AJ

I concur.

G. F. WRIGHT, J

/em