

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA



CASE NO: A9537/13

17
DATE OF HEARING: 17 APRIL 2014

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES / NO
(3)	REVISED.
17/4/2014	
DATE	SIGNATURE

In the matter between:

DIANNE BARBRA APPELGRYN

APPELLANT

and

THE STATE

RESPONDENT

J U D G M E N T

MAKHOBHA, AJ

[1] THE APPEAL

The Appellant pleaded guilty to one count of fraud on the 17th August 2012 in the Brakpan magistrate court and was found guilty as charged.

[2] THE CHARGE

The Appellant was sentenced to undergo twelve months imprisonment wholly suspended for four years on certain conditions.

In terms of section 103 (1) of Act 60 of 2000 Appellant was declared unfit to possess a firearm for the minimum period of ten years.

The appeal is solely against this order and it is not opposed by the Respondent.

[3] THE LAW

Section 103 (1) (g) of the Firearms control Act of 60 of 2000 reads as follows “ (1) *Unless the court determines otherwise, a Person becomes unfit to possess a firearms if convicted of - (g) any offence involving violence, sexual abuse or dishonesty, for which the accused is sentenced to a period of imprisonment without the option of a fine*”

[4] CONCLUSION

It is clear from the affidavit by the Appellant's legal representative in the court *a quo* that in terms of section 103 (1) of the Firearms Act Appellant's legal representative did not properly address court and did not take full instruction from the Appellant. As a result Appellant

suffered prejudice in that Appellant was subsequently declared unfit to possess a firearm.

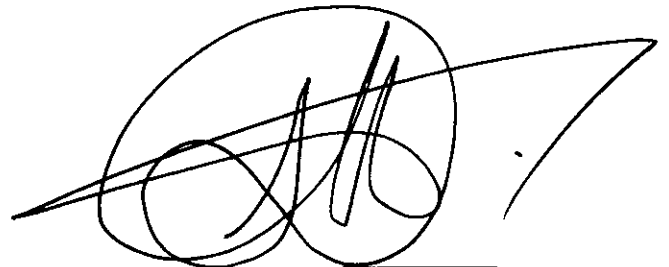
Appellant was a first offender. She pleaded guilty. There is no evidence that she is prone to violence. Appellant needs a licence to possess a firearm in order to be employed in the field of her profession namely security officer. It is my view that she should not have been declared unfit to possess a firearm.

[5] ORDER

I propose the following order:

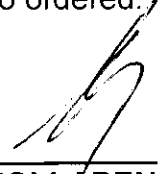
The order by the court *a quo* declaring Appellant unfit to possess a firearm is set aside and is replaced by the following order:

1. In terms of section 103 (1) of the firearms control Act 60 of 2000 Appellant (Dianne Barbra Appelgryn) is not declared unfit to possess a firearm.

A handwritten signature in black ink, consisting of a large, stylized 'M' and 'A' intertwined, with a long horizontal stroke extending to the right.

D MAKHOB
ACTING JUDGE OF THE
HIGH COURT OF SOUTH AFRICA,
GAUTENG DIVISION, PRETORIA

I agree and it is so ordered.



KOLLAPEN
JUDGE OF THE HIGH
COURT OF SOUTH AFRICA,
GAUTENG DIVISION, PRETORIA

Representation for the Appellant:

Counsel Mr M B Kgagara

Instructed by Legal Aid South Africa - Pretoria

Representation for Respondent

Counsel Adv: L Williams

Instructed by: Office of the Director of Public Prosecutions