



A688/14

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~ / NO.

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO.

(3) REVISED.

DATE

10/09/14

SIGNATURE

11/09/2014

DATE: ~~09/09/2014~~

Magistrate: Fochville

Case no: B126/12

High court ref no: 313/2014

THE STATE

v

CARLOS ALBERTO MANGULA

REVIEW JUDGMENT

J W LOUW, J

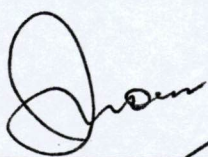
[1] The accused was charged in the Fochville magistrates' court on a count of contravening s 65(2)(a) of the National Road Traffic Act 93 of 1996 by driving a motor vehicle while the concentration of alcohol in his blood was not less than 0,05 grams per 100 ml, being 0,22 grams per 100 ml. He pleaded guilty to the charge and was convicted and sentenced to a fine of R2 000,00 or five months' imprisonment.

[2] When questioned by the court in terms of s 112(1)(b) of Act 51 of 1977, the accused confirmed that the sample of his blood was taken within the two hour prescribed time limit. He was, however, not asked whether he admitted that the blood sample was correctly analysed or whether he admitted the result of the test.

[3] The matter came before me on review in terms of s 302 of Act 51 of 1977. I requested the learned magistrate to comment on this apparent oversight. The explanation which has been provided is that the accused understood the charge and pleaded guilty and that the accused was a person without skills or knowledge on how alcohol specimens are analysed. The further explanation is that the questions would have been "redundant" as the accused was not able to admit or deny issues that were not in his personal knowledge.

[4] The Director of Public Prosecutions has provided written submissions in which it is stated that the trial court misdirected itself by not directing any inquiry to the results of the blood analysis which is a crucial element of the offence. I respectfully agree with the submission. The court could not have been satisfied that all the elements of the offence had been admitted, which is what is required by s 112(1)(b). The conviction in terms of s 112(1)(b) can therefore not be upheld.


[5] In the result, the conviction and sentence imposed by the trial court are set aside.



J.W. LOUW

JUDGE OF THE HIGH COURT,
PRETORIA

I agree



A.J. BAM

JUDGE OF THE HIGH COURT,
PRETORIA