IN THE HIGH COURT OF SOUTH AFRICA A289/2016

(GAUTENG DIVISION, PRETORIA)

Review Case Number: 158/16

DELETE WHICHEVER IS NOT APPLICABLE

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

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

(3) REVISED. ✓

DATE SIGNATURE

In the matter between:

THE STATE

AND

ZONKE MVANDABA & 2 OTHERS

REVIEW JUDGMENT

Fabricius J,

1.

The accused in this special review were handed the following sentence by the presiding Magistrate after a plea of guilty as charged:

"Accused 2 and 3 fined R 2000 (two thousand rand) or 6 (six) months imprisonment, of which 3 (three) months is suspended for a period of 3 (three) years on condition accused 2 and 3 are not convicted of possession of any unwrought precious metals within the period of suspension. In terms of Section 103 (2) of Act 60 of 2000 accused 2 and 3 are not declared unfit to possess a firearm."

2.

The Magistrate sent this on special review as the sentence clearly did not reflect his intention to impose a sentence that would act as a deterrent. The correct sentence imposed was:

"Accused 2 and 3 are fined R 2000 (two thousand rand) or 3 (three) months imprisonment and a further 3 (three) months imprisonment, suspended for a period of 3 (three) years on condition accused 2 and 3 are not convicted of possession of any unwrought precious metals within the period of suspension. In terms of Section 103 (2) of Act 60 of 2000 accused 2 and 3 not declared unfit to possess a firearm."

3.

I agree with the Magistrate's reasoning. The sentence imposed was clearly an error. The substituted sentence reflects his intention and is accordingly imposed in place of the sentence actually handed down.

JUDGE H.J FABRICIUS

JUDGE OF THE HIGH COURT GAUTENG DIVISION PRETORIA

And

I Agree

JUDGE D. S. FOURIE

JUDGE OF THE HIGH COURT GAUTENG DIVISION PRETORIA