

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 45537/16

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|-----------|----------------------------------------|
| (1) | REPORTABLE: YES/NO |
| (2) | OF INTEREST TO OTHER JUDGES: YES/NO |
| (3) | REVISED. ✓ |
| DATE | 12/11/2019, |
| SIGNATURE | |

In the matter between:-

**FIDELITY SECURITY SERVICES
(PTY) LTD**

Applicant

and

**THE MINISTER OF POLICE
THE MINISTER OF JUSTICE
ACTING NATIONAL COMMISSIONER OF
THE SOUTH AFRICAN POLICE SERVICES:
JK PHAHLANE**

1st Respondent

2nd Respondent

3rd Respondent

JUDGMENT

RANCHOD, J

[1] The nub of this application for leave to appeal is whether section 28(6) of the Firearms Control Act 60 of 2000 (the Act) permits the Registrar to, on good cause shown, extend the date of expiry of a licence which has expired in terms of s24(1) of the Act.

[2] Counsel for the applicant submitted that s28(1)(a), in referring to, "upon the expiry of the relevant period contemplated in s27, unless renewed in terms of s24" is covered by the words "Any period contemplated in this section:" in s28(6).

[3] Accordingly, so the argument went, the Registrar is not precluded from considering an extension of the period of 90 days referred to in s24(1) on good cause shown by an applicant.

[4] In my judgment I said that the Constitutional Court clearly stated in *Minister of Safety and Security v South African Hunters and Game Conservation Association (Case CCT177/17)* that once a licence expires and there has been no application to the Registrar for its renewal at least 90 days before it expired, that is the end of the matter. The firearm must be surrendered. The case considered the constitutional validity of s24 and s28 of the Act.

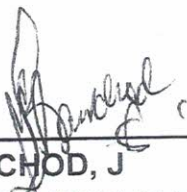
[5] The applicant in this case before me was an *amicus curiae* before the Constitutional Court and had argued that s24(1) of the Act was unconstitutional. In the alternative, it asked the Court to declare first, that

s28(6) allowed the period of validity of a licence to be extended and, second, that applicants for firearm licences should be allowed to submit late applications and should be issued with temporary licences in accordance with s21 when they do so.

[6] With respect, it seems to me that the Constitutional Court did not pertinently deal with these submissions of the *amicus*.

[7] It therefore seems to me that this aspect deserves consideration by an appellate court. In view of the interpretational challenge and its importance not only to the applicant in this matter before me, but also to the public at large I would grant leave to the Supreme Court of Appeal.

[8] Accordingly, leave to appeal is granted to the SCA with costs of this application to be costs in the appeal.



RANCHOD, J
JUDGE OF THE HIGH COURT

Appearances

Appearance for the Applicant : Adv M Snyman

Instructed by M J Hood and Associates

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01 Humber Street, Woodmead

Appearance for the Respondents : Adv J Motepe (SC)

Adv DD Mosoma

Instructed by State Attorney

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