

IN THE HIGH COURT OF SOUTH AFRICA

(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

CASE NO:

A343/2007

DATE:

18 APRIL 2008

5 In the matter between:

SEVORO HENDRICKS

Appellant

and

THE STATE

Respondent

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J U D G M E N T

MEER, J:

[1] On 1 March 2007 appellant was convicted in the Wynberg

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Regional Court for contravening two protection orders

issued in terms of the Domestic Violence Act, 116 of

1998. In contravention of the orders, the appellant had

on 27 April 2006 entered the home of Yvonne Samuels

and sworn at her. He had again entered her home on 10

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May 2006 and sworn at her daughter. Appellant was

sentenced to three years' imprisonment on each count,

an effective six years' imprisonment. Appellant appeals

against his sentence, contending in essence that it is

excessive.

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SP

[2] In sentencing appellant, the magistrate drew attention to the fact that he had been convicted before of a similar offence and also for assault. In the light of his previous convictions and disregard for the law, a direct period of imprisonment said the magistrate, was called for on each count. The circumstances, moreover, did not warrant that the sentences run concurrently.

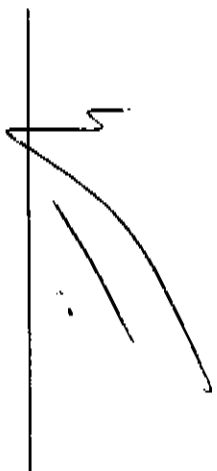
[3] Mr Maartens for respondent drew our attention to the fact that the two charges forming the subject of this appeal in essence comprised a verbal *crimen injuria* and conceded that the sentences were severe. I am in agreement with these submissions. Although section 178 of Act 116 of 1998 provides for a maximum of five years' imprisonment, the conduct of appellant apropos the two counts do not, in all the circumstances, warrant the sentences imposed which, in my view, can be seen as excessive. The sentences, therefore, fall to be amended on appeal.

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[4] I would accordingly substitute the sentence with the following sentences:

25 Count 1 – six months' imprisonment

Count 2 – six months' imprisonment

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A handwritten signature in black ink, appearing to be 'N. C. ERASMUS, J.', written over a horizontal line.

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MEER, J

N C ERASMUS, J.: I agree. The imposed sentences by the
magistrate are set aside and substituted with the sentences
proposed by my colleague.

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N C ERASMUS, J

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