

IN THE HIGH COURT OF SOUTH AFRICA
(WITWATERSRAND LOCAL DIVISION)

Johannesburg

DATE: 12/ 05 / 2003

CASE NO: High Court Ref: 556/03
Magistrate's Serial No. 254/03/obe
Case Number 68/568/03

In the matter between:

THE STATE

And

DESMOND SENOCHA

REVIEW JUDGMENT

WILLIS J:

This case has come to me by way of review in terms of section 304 of the Criminal Procedure Act No. 51 of 1977, as amended.

The accused was found guilty in the Johannesburg Magistrate's Court of contravening Section 67 (i) (a) of the Police Service Act No. 68 of 1995 in that he intentionally hindered or obstructed a member of the

South African Police Services in the exercise of his powers or functions by pushing him while he was effecting an arrest.

The accused was found guilty and sentenced to twelve months' imprisonment, without the option of a fine.

I am satisfied that his conviction was in accordance with justice.

The police had arrested a young man carrying a beer in Dube during the night of 27th February, 2003. The accused who was the friend of the person originally arrested and who had been in his company at the time of the arrest, pushed the police officer away, while protesting at the arrest. The suspect originally arrested got away.

The accused is a first offender. He was employed at the time of his conviction as a cashier at Interpark at the Eastgate Shopping Mall. He offered to pay a fine. He is 23 years old. It has to be borne in mind that no dangerous weapons had been used, that the crime was not premeditated and that the consumption of alcohol by the accused almost certainly played a role.

The cumulative effect of all these facts is such that this sentence differs so strikingly from that which I would have considered appropriate in these particular circumstances that I am of the view that justice requires that I interfere. I have asked the Director of

Public Prosecutions for comment and his office agrees that a lesser sentence is appropriate.

I made the order which now follows on Thursday, 8th May, 2003 indicating that I would give reasons later:

(1) The conviction is confirmed;

(2) The sentence is set aside and the following is substituted therefor:

“ The accused is sentenced to a fine of R500 (five hundred rand) or six months’ imprisonment, half of which is suspended for five years on condition that the accused is not convicted of the same offence during the period of suspension.”

DATED AT JOHANNESBURG THIS 9th DAY OF MAY, 2003.

N.P.WILLIS

JUDGE OF THE HIGH COURT

I agree.

C. P. RABIE

JUDGE OF THE HIGH COURT