

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

Johannesburg

DATE: 08 / 06 / 2005

REVIEW CASE: HIGH COURT REF NO: 547/2005
MAGISTRATE'S SERIAL NO 39/2005
RANDBURG CASE NO: G484/05

In the matter between:

THE STATE

and

JOHANNES BUISANG

REVIEW JUDGMENT

WILLIS J:

This matter has come before me by way of special review in terms of the provisions of section 304 (4) of the Criminal Procedure Act, No 51 of 1977, as amended ("the Act").

The accused had been charged in the Randburg Magistrate's Court with having assaulted another person by kicking her with booted feet. The accused pleaded guilty and was convicted accordingly. He was sentenced to a fine of R2000 or five months' imprisonment suspended for three years on condition that he was not found guilty of assault committed during the period of suspension.

An enquiry was held in terms of the Firearms Control Act, No. 60 of 2000 and, as a result, the accused was not found unfit to possess a firearm.

The Chief Magistrate has drawn it to my attention that the fine exceeds the prescribed maximum penalty of R1500 in terms of section 112 (1) (a) of the Act.

I am pleased to remedy the error by way of review.

The following order is made:

1. The conviction of the accused is confirmed;
2. The sentence imposed by the learned magistrate on 26 April 2005 is reviewed and set aside;
3. The following order is issued in substitution thereof:

“The accused is sentenced to a fine of R1500- or three months’ imprisonment, which sentence is wholly suspended for three years on condition that the accused is not convicted of any crime of which violence is an element committed during the period of suspension.”

DATED AT JOHANNESBURG THIS 8th DAY OF JUNE, 2005

N.P.WILLIS

JUDGE OF THE HIGH COURT

I agree.

C.P. RABIE

JUDGE OF THE HIGH COURT