

REPUBLIC OF SOUTH AFRICA



A807/12

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH GAUTENG, PRETORIA)

High Court Ref.No. 1071
Magistrate's serial no: REVIEW 7/12
Case no: D338/10

In the matter between:

15/11/12

JABULANI SPHIWE SKHOSANA

APPLICANT

AND

THE STATE

RESPONDENT

REVIEW JUDGMENT

BAQWA J

- [1] The accused was convicted in the Regional Magistrate's Court, Mankweng and sentenced to three(3) years imprisonment.
- [2] The charge was that the accused had contravened the provisions of Section 3 read with schedule 4 and section 151 of the Firearms Control Act 60 of 2000 in that on 26 July 2010 at Mankweng in the district of Polokwane he had been found in possession of a firearm.

[3] The plea of the accused amounted to a bare denial in that he stated that he never possessed a firearm.

[4] The case has been brought before me by way of review in chambers.

[5] Upon perusal of the record I noted that a number of alterations or amendments have purportedly been effected in ink on the typed record. There is no indication as to who the author of the alterations or amendments was. They have not been certified by the transcriber of the record.

[6] The amendments or alterations do not accord with the requirements regarding the reconstruction of case records when this becomes necessary. These are set out in the case of

S v Gora and Another 2010(1) SACR 159(WCC)

where it was held that where the record of a criminal trial has been lost and has to be reconstructed, the reconstruction process is part and parcel of the fair trial process and includes the following:

" the accused must be informed of the missing portion to be reconstructed; of his right to participate in the reconstruction process; his right to a legal representative in such a construction process; the right to have the reconstruction process interpreted for him should he require the service of the interpreter. The reconstruction process must give effect to the accused's right to public trial before an ordinary court."

[7] In **casu**, the record has not been lost so we are dealing only with the reconstruction process. The guidelines have to be followed.

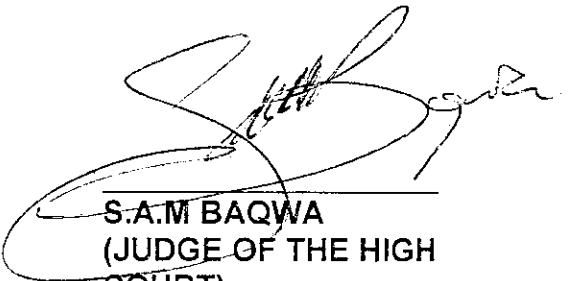
[8] In the result it is suggested that the following order be made:

8.1. The case is remitted to the Magistrate's Court for a reconstruction of the record as per guidelines stated herein.

8.2. The alterations or amendments must then be factored into the record and duly certified and signed by the transcriber.

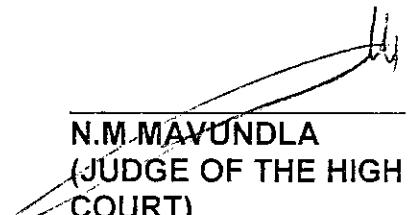
8.3. The case can then be sent for review.

Dated and signed at Pretoria this 7th day of November 2012.



S.A.M BAQWA
(JUDGE OF THE HIGH
COURT)

I agree and it is so ordered.



N.M. MAYUNDLA
(JUDGE OF THE HIGH
COURT)