

A 325/18
Date: 14/8/2018



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

Review Case No: 12/2/1/-5/2018
High Court Ref No: 102/18

In the matter between:

STATE

and

ARTHUR BOUWER

Respondent

(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED.
7/8/18	
DATE	SIGNATURE

REVIEW JUDGMENT

D S FOURIE, J:

[1] In a report dated 17 April 2018 the South African Council on Alcohol and Drug Dependency concluded that the respondent is a person with a drug problem and should be admitted to an in-patient treatment centre for long-term treatment. He had already been admitted on five previous occasions. On 14 May 2018 the following was granted by the Magistrate:

"Dat die nie-vrywillige diensverbruiker 'n person is wat behandeling benodig soos voorsien in 'n behandelingsentrum. Die hof gelas dat die respondent aangehou word in 'n geregistreerde behandelingsentrum te wete Dr Fabian & Florence Ribeiro Behandelingsentrum."

[2] Section 35(7)(c) of the Prevention of and Treatment for Substance Abuse Act, No 70 of 2008 provides as follows:

"If it appears to a Magistrate on consideration of the evidence and of any report submitted or furnished to him or her in terms of sub-section (5) that –

(a) ...

(b) ...

(c) *it would be in such a person's interest ... that he or she be admitted to a treatment centre, the Magistrate may order that the person concerned be admitted to a treatment centre designated by the Director-General for a period not exceeding 12 (twelve) months."*

[3] Sub-section (9) provides that a Magistrate who makes an order in terms of sub-section (7) *"must before referring an involuntary service user to a treatment centre order that such service user be admitted for detoxification at a health establishment or treatment centre authorised in terms of the National Health Act to provide detoxification."*

[4] The Magistrate conceded, rightly so in my view, that he omitted to state the duration of the order and also to make provision in the order for detoxification of the respondent. It is therefore necessary to set aside the Magistrate's order and to replace it with an order which will give effect to the subsections and report referred to above.

ORDER:

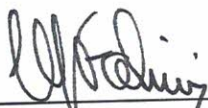
I propose the following order:

- 1.) The order of the Magistrate dated 14 May 2018 is set aside and replaced with the following:
 - (a) *It is ordered in terms of section 35(7) of Act 70 of 2008 that the respondent be admitted to the Dr Fabian & Florence Ribeiro Treatment Centre for a period of 4 (four) months calculated from 14 May 2018;*
 - (b) *It is further ordered in terms of section 35(9) of the said Act that the respondent also be admitted for detoxification, insofar it is still possible, overseen by the Dr Fabian & Florence Ribeiro Treatment Centre."*
- 2.) The order in terms of section 35(7) and (9) of Act No 70 of 2008, as referred to above, shall be effective from 14 May 2018.



D S FOURIE
JUDGE OF THE HIGH COURT
PRETORIA

I agree, and it is so ordered.



H J FABRICIUS
JUDGE OF THE HIGH COURT
PRETORIA

Date: 10 February 2016