

70/1959

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In the Supreme Court of South Africa  
In die Hooggeregshof van Suid-Afrika

(APPELLATE

DIVISION).  
AFDELING).

APPEAL IN CRIMINAL CASE.  
APPEL IN STRAFSAAK.

PAUL JACOBUS ROBBERTS

Appellant.

versus/teen

THE QUEEN

Respondent.

Appellant's Attorney Lovius & Black  
Prokureur van Appellant

Respondent's Attorney  
Prokureur van Respondent

Appellant's Advocate S. Miller, Q.C.  
Advokaat van Appellant

Respondent's Advocate H.F. Redpath  
Advokaat van Respondent

Set down for hearing on: Tuesday, 22<sup>nd</sup> Sept., 1959.  
Op die rol geplaas vir verhoor op:

7.4.9. (B)

9.45 - 12.20 CAV.

Postea: Friday 2<sup>nd</sup> Oct. 1959

Appeal dismissed.

De Beer J.A.  
van Blerk J.A.  
Ramsbottom J.A. }

A. R. K. K.  
Rep.

IN THE SUPREME COURT OF SOUTH AFRICA.

( APPELLATE DIVISION.)

In the matter between

PAUL JACOBUS ROBERTS

..... Appellant

and

HEGINA

..... Respondent.

Coram: De Beer, van Blerk et Ramsbottom JJ.A.

Heard: 22nd September, 1959. Delivered: 2/10/1959

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J U D G M E N T

RAMSBOTTOM J.A.:

This is an appeal, by the leave of this Court, from the judgment of the High Court of South West Africa dismissing an appeal from the Magistrate's Court of Outjo.

The appellant was charged with contempt of court and was convicted. He was sentenced to imprisonment with hard labour for three months, ~~and~~ suspended on a suitable condition for three years. The appellant had been convicted of the same offence in October 1956 and part of the sentence then passed had been suspended for three years on condition that during the period of suspension he committed no similar offence. That condition having been broken, the suspended part of the 1956 sentence...../2

sentence has been brought into operation.

The charge against the appellant was that on ~~the 1st~~  
~~of~~ March <sup>1st</sup> 1958, he addressed a letter to Mr. Van der Walt, the  
Magistrate of Outjo, in which he wilfully insulted Mr. Van der  
Walt in his capacity of Magistrate - i.e. of judicial officer.

In order to understand the case, and the letter which  
is said to constitute the contempt, it is necessary to <sup>refer to</sup> ~~enter~~ the  
events that followed the conviction in 1956. That case had been  
~~treated~~ <sup>tried</sup> by the same Mr. Van der Walt, and the appellant had been  
convicted on October 24th 1956. On ~~the~~ <sup>October</sup> 30th 1956 the appellant  
wrote a letter addressed to "Die Magistraat" Outjo asking for  
a copy of the record of the case. Mr. Van der Walt, who, it  
appears, was required on account of shortage of staff at Outjo  
to perform clerical duties, dealt with the matter himself. He  
replied on November 6th saying that owing to pressure of work  
it would take a considerable time to type the record but that  
the appellant could make arrangements to have the record typed.  
Owing to a mistake on the part of a probationer clerk this letter  
was addressed to P. Robberts, Vlake, instead of to Mr. Paul  
Robberts, Vryheid, which is the appellant's address. The letter  
was redirected and the appellant received it on November 24th.  
He replied complaining about the mistake and thereafter again  
wrote asking for a copy of the record. A typed copy was eventu-

ally sent to him on January 30th 1957. Nothing in the appellant's letters indicated that he wanted the record urgently, and there was no suggestion that he had an appeal in mind. In fact no appeal was noted. The significance of this will appear later.

On December 26th 1957 the appellant wrote to "Die Magistraat, Outjo", asking for a form on which to apply for a speculat<sup>or's</sup>~~ion~~ licence for 1958. The form together with the statutory fee had to be lodged by January 31st 1958, so that the appellant was in good time. He received no reply to this letter, and on January 20th 1958 he wrote again; he said that he had not yet received the form he <sup>had</sup> asked for and he asked for it to be sent by return of post. That letter was received and the form was sent, but on what date does not appear; there is a note at the foot of the letter which reads "Vorm gestuur, 'n tweede een word aangeheg." By January 26th the appellant had not yet received the form. The matter was now urgent and he wrote again. He referred to the facts that the licence had to be renewed by January 31st and that he had asked for a form on December 26th, and he enclosed a cheque for £10. The letter was posted on January 30th and ought to have reached Outjo on January 31st. For some reason that was not explained that letter was not

received...../4

received by the Magistrate until February 3rd. Whether the delay was due to the fault of the Post Office or to ~~the~~ slackness on the part of the Magistrate's staff does not appear, but since the money was received after January 31st a penalty of £2 became payable and the appellant was informed accordingly.

The appellant was, with some justification, annoyed. On February 7th he wrote sending a cheque for £2 "under protest" and detailing his complaints. The letter ended with a reference to what had happened in October 1956 in the following terms:-

"Toe ek in Oktober 1956 vir u 'n afskrif van die kriminele saak teen my vra en my blanke tjek ingesluit het, het u vir my 'n kwitansie gestuur vir die £3 rente en boete op my persoonlike belasting en aan Mnr. Paul Robberts die Vlake geskryf dat u nie tyd het ~~om~~ om die saak te stuur nie, my tweede blanke tjek het u ook teruggestuur met 'n aanmerking dat u dit sal stuur op u ~~rekening~~ rekening as dit klaar is en ek moes 'n 3de tjek stuur na maande se gewag om dit eindelik te kry. Is u nou weer met die herhaling daarvan besig ? Probeer onthou mag is ook reg, maar kennis is mag as dit gebruik word."

In reply to that letter Mr. Van der Walt informed the appellant that his letter dated January 26th had not been received until 4p.m. on February 3rd. The paragraph that I have quoted above was, very properly, ignored.

The appellant...../5

"en ook nie in die toekoms nie, en jy het sonder verduideliking die kantoor ingestap.

van Paul Robberts.

N.B. Antwoord asseblief op my vrae.

P.R. "

This letter was received at the Magistrate's Office at Outjo and it was opened and read by the assistant Magistrate, Mr. Kotze, in the ordinary course of his duties. Mr. Kotze considered the letter to be insulting and he showed it to Mr. Van der Walt. The prosecution followed.

The onus was on the Crown to prove that the letter was, and was intended to be, an insult to the Magistrate in his capacity of judicial officer. The contention put forward on behalf of the accused was that although the letter may have been insulting, the insult was offered to Mr. Van der Walt as an administrative official, or as a man, and not as a judicial ~~ex~~ officer.

I have no doubt that the letter was insulting. The last paragraph is insulting of Mr. Van der Walt as an individual; that is not criminal. Paragraphs 1. 2. & 3. clearly relate to the administrative functions of the Magistrate's office; they contain nothing that amounts to a contempt of court. The mischief lies in paragraph 4. There is no doubt that in that paragraph the appellant..../7

graph the appellant suggested - to put it no higher - that Mr. Van der Walt, intentionally misdirect<sup>e</sup>d a letter in 1956 in order to prevent the appellant from appealing from a judgment which Mr. Van der Walt had given against him. If the suggestion meant ~~that~~ the Mr. Van der Walt had done that in his judicial capacity, then, provided that the necessary intent was present, contempt of court was committed.

Mr. Miller in a skilful~~x~~ and persuasive argument contended that, read against the background of the previous correspondence and having regard to the duality of the functions of the Magistrate, paragraph 4 of the letter ought to be read as referring to Mr. Van der Walt in his administrative capacity. There is considerable force in this argument. All the correspondence that had passed, both in 1956 and 1957 and in 1958, had related to administrative or clerical matters; every letter of the appellant had been addressed to "Die Magistraat, Outjo" and every letter written by Mr. Van der Walt had been signed by him as "Magistraat" or "Landdros". The fact that the letter ~~of~~ of March 1st 1958 was addressed to "Die Magistraat", therefore, ~~in no way~~ <sup>itself does not</sup> indicate~~x~~ that any part of it related to the Magistrate's judicial function. All the prior complaints, and the complaints which are repeated in the letter which is the subject of the

charge, are complaints about the performance of administrative duties by the Magistrate or his staff. Even the letter of February 7th 1958, the last paragraph of which has been quoted above, relates only to the administrative function of the Magistrate and his staff and the question "Is u nou weer met die herhaling daarvan besig ?", while it may impute incompetence, makes no suggestion that there was misconduct by the Magistrate while exercising his judicial function. Against this background there is force in the argument that paragraph 4 of his final letter means no more than the last paragraph of the previous letter and is, again, an attack on the administrative side of the Magistrate's office.

The case is not without difficulty, but I have come to the conclusion that Mr. Miller's argument cannot be accepted. Paragraph 4 of the letter of March 1st contains something new - something that was not suggested in the previous letter or in any earlier correspondence - namely, that the letter of November 6th 1958 had been purposely sent to the wrong address in order, by causing<sup>a</sup> delay, to prevent the appellant from appealing against the Magistrate's judgment. The words used were "het jy dit gedoen om tyd te steel, sodat ek nie teen jou uitspraak kan appelleer nie." Those words were addressed to a Magistrate. In their ordinary meaning they contain an accusation that the Magistrate had...../9



strate had deliberately caused a delay in order to prevent an appeal from being noted against his judgment, and in the ordinary meaning of the words there is, I think, clearly an accusation of misconduct in <sup>the</sup> ~~his~~ performance of his judicial function. Mr. Miller <sup>argued</sup> ~~agreed~~ that if the appellant had written to the clerk of the court and had accused him of causing a delay in order to prevent an appeal against the Magistrate's judgment, there would have been no contempt. The Magistrate performed the duties of clerk of the court as well as those <sup>of</sup> /judicial ~~function~~ officer, and the appellant knew of that duality. When the Magistrate dealt with the matter of the record in 1956, he did so as ~~if~~ if he were clerk of the court - again to the knowledge of the appellant. Consequently, so Mr. Miller argued, the words in paragraph 4 of the letter must be read as if they had been addressed to the clerk of the court. So read they would mean: Why did you ( as clerk of the court ) misdirect the record of evidence ? Was it because you ( as clerk ) wanted to let my time for an appeal to lapse so that I could not appeal against the Magistrate's judgment ?" So read the words would not be a contempt of court. That argument attributes a knowledge and a subtlety to the appellant ~~XXXXXX~~ to which he laid no claim. He did not give evidence and he did not say that that was what he meant. Addressing a Magistrate, a judicial officer who had given judgment...../10

given judgment against him, he accused the Magistrate of stealing time in order to prevent an appeal against his - the Magistrate's - judgment; the words are "teen jou uitspraak. Those words do not mean "you, the clerk, were protecting the Magistrate" they mean "you, the Magistrate, the judicial officer, were protecting yourself".

Mr. Miller argued that the intention to commit a contempt of court had not been proved. Once again, the fact that the appellant did not give evidence puts an insuperable difficulty in <sup>his</sup> ~~the~~ way. A man's intention is a fact which is usually proved by inference from his conduct. The facts proved were that the appellant addressed to a Magistrate an insulting letter in which he imputed to him misconduct in the performance of his judicial function. In the absence of evidence to the contrary, the only inference that can reasonably be drawn is that the appellant intended to do what he did do, and in my opinion, therefore, he was correctly convicted and the appeal to the High Court was correctly dismissed.

Mr. Miller did not contend that the sentence was excessive. The appellant will suffer imprisonment, not because of the sentence passed in respect of this ~~sentence~~ offence, but because of the order that the earlier suspended sentence be brought into operation. That order was made on an application by the

prosecutor - a different and separate proceeding. I need not discuss the question whether such an order is appealable because there has been no appeal against that order.

The appeal is dismissed.

A handwritten signature in dark ink, appearing to read 'W. H. Ramsbottom'. The signature is fluid and cursive, with a prominent 'W' and 'H'.

RAMSBOTTOM J.A.

DE BEER J.A.

VAN BLERK J.A.

In the case of between:

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...State of Ohio, who thought it could be stored  
and that it was other people's money to be stored  
...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored

...State of Ohio, who thought it could be stored  
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...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored

Respectfully,  
[Signature]  
[Name]

...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored  
...State of Ohio, who thought it could be stored

1. ... dat sy ... ..

2. ... ..

3. ... ..

4. ... ..

5. ... ..

van ... ..

... ..

1-218/.....

that it be supplied .

In December, 1957, the appellant wrote to the  
Magistrate asking for certain licence forms to be  
sent to him and , when he did not receive them as  
soon as he had expected , he sent the Magistrate £10.--  
in payment of the fee for a speculator's licence for 1958.  
This letter appears to have been posted in time to  
reach Outjo on the last day prescribed for the payment  
of licence monies i.e. 31st January, 1958, but the  
Magistrate wrote back , stating that he had only received  
it after that date and imposing a fine for late pay-  
ment. This led to the writing by the appellant of the  
letter of the 1st March , 1958, upon which the charge of  
contempt of court was based .

The grounds of appeal are:

- a) That a proper construction of this letter does not  
amount to the offence charged.
- b) That any attack made on the Magistrate, read in  
its proper context , was intended as an act of upon  
him personally and not in his judicial capacity  
and thus does not constitute the offence charged,
- c) That the intent to commit contempt of court was not





containing the same, and the same shall be the same.

and the same shall be the same, and the same shall be the same.

or anything else which shall be the same, and the same shall be the same.

has appeared on the same, and the same shall be the same.

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every one of them, and the same shall be the same.

and the same shall be the same, and the same shall be the same.

concerning the same, and the same shall be the same.

and the same shall be the same, and the same shall be the same.

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and the same shall be the same, and the same shall be the same.





and I should be very appreciative of any help.

My wife and I are very grateful to you.

I am sure you will be very helpful.

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I am sure you will be very helpful.

I am sure you will be very helpful.









Box V. 2414, 1971 ..... 275

(c) Section 1033(b)(1)(B)(i), added, shall read:

John W. & Mary C. Smith, 1890

**MEMORANDUM FOR THE DIRECTOR OF COLLEGE**

1990-1991, 1991-1992, 1992-1993, 1993-1994, 1994-1995, 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021, 2021-2022, 2022-2023, 2023-2024, 2024-2025, 2025-2026, 2026-2027, 2027-2028, 2028-2029, 2029-2030, 2030-2031, 2031-2032, 2032-2033, 2033-2034, 2034-2035, 2035-2036, 2036-2037, 2037-2038, 2038-2039, 2039-2040, 2040-2041, 2041-2042, 2042-2043, 2043-2044, 2044-2045, 2045-2046, 2046-2047, 2047-2048, 2048-2049, 2049-2050, 2050-2051, 2051-2052, 2052-2053, 2053-2054, 2054-2055, 2055-2056, 2056-2057, 2057-2058, 2058-2059, 2059-2060, 2060-2061, 2061-2062, 2062-2063, 2063-2064, 2064-2065, 2065-2066, 2066-2067, 2067-2068, 2068-2069, 2069-2070, 2070-2071, 2071-2072, 2072-2073, 2073-2074, 2074-2075, 2075-2076, 2076-2077, 2077-2078, 2078-2079, 2079-2080, 2080-2081, 2081-2082, 2082-2083, 2083-2084, 2084-2085, 2085-2086, 2086-2087, 2087-2088, 2088-2089, 2089-2090, 2090-2091, 2091-2092, 2092-2093, 2093-2094, 2094-2095, 2095-2096, 2096-2097, 2097-2098, 2098-2099, 2099-2100, 2100-2101, 2101-2102, 2102-2103, 2103-2104, 2104-2105, 2105-2106, 2106-2107, 2107-2108, 2108-2109, 2109-2110, 2110-2111, 2111-2112, 2112-2113, 2113-2114, 2114-2115, 2115-2116, 2116-2117, 2117-2118, 2118-2119, 2119-2120, 2120-2121, 2121-2122, 2122-2123, 2123-2124, 2124-2125, 2125-2126, 2126-2127, 2127-2128, 2128-2129, 2129-2130, 2130-2131, 2131-2132, 2132-2133, 2133-2134, 2134-2135, 2135-2136, 2136-2137, 2137-2138, 2138-2139, 2139-2140, 2140-2141, 2141-2142, 2142-2143, 2143-2144, 2144-2145, 2145-2146, 2146-2147, 2147-2148, 2148-2149, 2149-2150, 2150-2151, 2151-2152, 2152-2153, 2153-2154, 2154-2155, 2155-2156, 2156-2157, 2157-2158, 2158-2159, 2159-2160, 2160-2161, 2161-2162, 2162-2163, 2163-2164, 2164-2165, 2165-2166, 2166-2167, 2167-2168, 2168-2169, 2169-2170, 2170-2171, 2171-2172, 2172-2173, 2173-2174, 2174-2175, 2175-2176, 2176-2177, 2177-2178, 2178-2179, 2179-2180, 2180-2181, 2181-2182, 2182-2183, 2183-2184, 2184-2185, 2185-2186, 2186-2187, 2187-2188, 2188-2189, 2189-2190, 2190-2191, 2191-2192, 2192-2193, 2193-2194, 2194-2195, 2195-2196, 2196-2197, 2197-2198, 2198-2199, 2199-2200, 2200-2201, 2201-2202, 2202-2203, 2203-2204, 2204-2205, 2205-2206, 2206-2207, 2207-2208, 2208-2209, 2209-2210, 2210-2211, 2211-2212, 2212-2213, 2213-2214, 2214-2215, 2215-2216, 2216-2217, 2217-2218, 2218-2219, 2219-2220, 2220-2221, 2221-2222, 2222-2223, 2223-2224, 2224-2225, 2225-2226, 2226-2227, 2227-2228, 2228-2229, 2229-2230, 2230-2231, 2231-2232, 2232-2233, 2233-2234, 2234-2235, 2235-2236, 2236-2237, 2237-2238, 2238-2239, 2239-2240, 2240-2241, 2241-2242, 2242-2243, 2243-2244, 2244-2245, 2245-2246, 2246-2247, 2247-2248, 2248-2249, 2249-2250, 2250-2251, 2251-2252, 2252-2253, 2253-2254, 2254-2255, 2255-2256, 2256-2257, 2257-2258, 2258-2259, 2259-2260, 2260-2261, 2261-2262, 2262-2263, 2263-2264, 2264-2265, 2265-2266, 2266-2267, 2267-2268, 2268-2269, 2269-2270, 2270-2271, 2271-2272, 2272-2273, 2273-2274, 2274-2275, 2275-2276, 2276-2277, 2277-2278, 2278-2279, 2279-2280, 2280-2281, 2281-2282, 2282-2283, 2283-2284, 2284-2285, 2285-2286, 2286-2287, 2287-2288, 2288-2289, 2289-2290, 2290-2291, 2291-2292, 2292-2293, 2293-2294, 2294-2295, 2295-2296, 2296-2297, 2297-2298, 2298-2299, 2299-2300, 2300-2301, 2301-2302, 2302-2303, 2303-2304, 2304-2305, 2305-2306, 2306-2307, 2307-2308, 2308-2309, 2309-2310, 2310-2311, 2311-2312, 2312-2313, 2313-2314, 2314-2315, 2315-2316, 2316-2317, 2317-2318, 2318-2319, 2319-2320, 2320-2321, 2321-2322, 2322-2323, 2323-2324, 2324-2325, 2325-2326, 2326-2327, 2327-2328, 2328-2329, 2329-2330, 2330-2331, 2331-2332, 2332-2333, 2333-2334, 2334-2335, 2335-2336, 2336-2337, 2337-2338, 2338-2339, 2339-2340, 2340-2341, 2341-2342, 2342-2343, 2343-2344, 2344-2345, 2345-2346, 2346-2347, 2347-2348, 2348-2349, 2349-2350, 2350-2351, 2351-2352, 2352-2353, 2353-2354, 2354-2355, 2355-2356, 2356-2357, 2357-2358, 2358-2359, 2359-2360, 2360-2361, 2361-2362, 23

# THE HISTORY OF THE

100-443886-100

**SECRET**

100-443887-100

**THE**

[illegible]

# THE LIFE OF SAMUEL JOHNSON

100-441614-100

100

**Figure 1.** The effect of the number of trials on the mean accuracy of the responses ( $n = 10$ ) as a function of the number of trials per condition ( $n = 10$ ). The error bars represent the standard error of the mean.

THE UNIVERSITY OF CHICAGO

[illegible][illegible]

THE UNIVERSITY OF CHICAGO

100-443887-100

There are several reasons why the results of this study may not be generalizable to other populations. First, the sample was relatively small and consisted of a convenience sample of students from a single university. Second, the study was conducted in a specific cultural context, and the results may not be applicable to other cultures. Third, the study was a cross-sectional study, and the results may not reflect changes over time. Finally, the study did not control for other factors that may influence the relationship between the variables.

# THE HISTORY OF THE

# FAIR

I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

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As you know, I am not a doctor and I am not a nurse.

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As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

As you know, I am not a doctor and I am not a nurse.

that in its plainology. Mr. Kitzinger has argued that appellant's trial was also too rational and that the point was that the "you" have read the term "u" which is ordinarily employed in official correspondence and which was used by the appellant in all his previous letters to the registrars. If one compares this letter with the previous ones it becomes quite clear that the appellant was deliberately disguised with anything from which courtesy might be inferred. The change to the familiar "jy" and "jeu" is but one feature of a general attitude of mind which the trend of his letter disclosed. The last paragraph reading Mr. van der Witte is given (disrespectfully) to the appellant, is directed out to him and the remark that he could expect the same treatment in the future seems to me to be a fitting closure to a letter which must have been intended to hurt and insult the recipient.

Contempt of court was defined by Act 64.

As judgments and recommendations have always been received with great respect, more than eighty years ago in the case of in re Melan (1877 Letter 5.) in the following words:-



EDUCATIONAL RECORD OF L. A. B.

1. L. A. B. was born on 12/20/1910 at New York, N. Y.

2. L. A. B. was educated in the public schools of New York, N. Y.

3. L. A. B. was educated in the public schools of New York, N. Y.

4. L. A. B. was educated in the public schools of New York, N. Y.

5. L. A. B.

6. L. A. B.

7. L. A. B. was educated in the public schools of New York, N. Y.

8. L. A. B. was educated in the public schools of New York, N. Y.

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14. L. A. B. was educated in the public schools of New York, N. Y.

15. L. A. B. was educated in the public schools of New York, N. Y.

16. L. A. B.