



SAGA Snippets

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ConCourt Post Judgment Media Summary

This Media Summary of the ConCourt judgment was taken from the Constitutional Court website:

<https://www.concourt.org.za/index.php/judgement/468-minister-of-police-and-others-v-fidelity-security-services-pty-limited-cct195-21>

Minister of Police and Others v Fidelity Security Services (Pty) Limited CCT195/21

Case CCT 195/21
[2022] ZACC 16
Hearing Date: 18 November 2021
Judgement Date: 27 May 2022

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

On Friday, 27 May 2022 at 10h00, the Constitutional Court handed down judgment in an application for leave to appeal against the judgment and order of the Supreme Court of Appeal (SCA), which held that Fidelity Security Services (Pty) Limited (Fidelity) is entitled to apply for licences to possess firearms, with respect to firearms whose previous licences had expired. The primary issue for determination was whether the SCA was correct in its interpretation of section 3 of the Firearms Control Act (the Act), as read with section 149 of that Act.

Fidelity is one of the largest security service providers in South Africa, and being in possession of firearms is an indispensable aspect of its business. It



owns more than 8 500 firearms, utilised by its security officers to execute their tasks. In compliance with the Act, Fidelity nominated Mr S G Yssel as the person responsible for holding the licences issued to a juristic person. Mr Yssel left the employ of Fidelity on 1 February 2016. When Mr J G Wentzel took over from Mr Yssel, he discovered that the licences of some 700 firearms had not been renewed timeously (in terms of section 24 of the Act) and consequently, terminated by operation of law as contemplated in section 28 of the Act.

On 18 April 2016, Fidelity belatedly attempted to renew the licences that had already expired. However, the Designated Firearm Officer at the Florida Police Station refused to accept the late applications for renewal. This was in accordance with a circular issued by the Commissioner on 3 February 2016 which required that applications for renewal of firearm licences must be lodged at least 90 days before the expiry of the licence.

Fidelity launched an application in the High Court in which it sought extensive relief, namely: (a) challenging the constitutionality of sections 24 and 28 of the Act as well as the circular; (b) compelling the police to

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Special points of interest:

- *ConCourt Post Judgment Media Summary*
- *3 Practical Pistol Drills*
- *National Hunting Day in KZN*
- *What your pistol target is trying to tell you*
- *SAGA Membership*
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accept the late renewal applications; (c) directing the police to issue Fidelity with temporary authorisations; (d) seeking an interdict restraining the police from seizing the firearms whose licences had terminated pending the finalisation of its renewal applications; and (e) seeking, in the alternative, a mandamus order → →

directing the police to accept the new applications for firearm licences. It later abandoned the constitutional challenges of invalidity to sections 24 and 28 of the Act and the circular, consequent to the decision of this Court in *Minister of Safety and Security v South African Hunters and Game Conservation Association* [2018] ZACC 14; 2018 (2) SACR 164 (CC); 2018 (10) BCLR 1268 (CC) (SA Hunters), where this Court found sections 24 and 28 of the Act to be constitutionally valid. The High Court dismissed the application, finding that Fidelity had persisted in asking the Court to order the Minister of Police (the Minister) to consider applications for renewal or for new licences where the licences had terminated by effluxion of time. It also held that Fidelity's belated attempt to rely on section 22 of the Constitution was misplaced.

With the leave of the High Court, Fidelity appealed that decision to the SCA, which overturned the decision of the High Court. The SCA held that the Minister's reliance on SA Hunters was misplaced. Based on SA Hunters, the Minister had argued that to grant the relief sought by Fidelity would be tantamount to the Court granting its imprimatur to an illegality, namely the unlawful possession of unlicensed firearms in contravention of section 3 of the Act. The SCA found that there is nothing in the Act, nor the Regulations, that suggests that someone whose licence has terminated by operation of law is, as a result, forever precluded from applying for a new licence. It held further that first-time applicants and repeat applicants alike are eligible to apply for a firearm licence and once such application has been submitted, it is up to the Commissioner of Police to satisfy himself that the applicant concerned meets the requirements stipulated in the Act and Regulations. The SCA reasoned that this interpretation is reinforced by section 149 of the Act, which

provides that a firearm may only be destroyed as prescribed, and that it "remains the property of the owner thereof until such destruction". Lastly, the SCA found that an interpretation of the Act -



that firearm owners whose licences have expired are prevented from applying for a new licence, and are required to buy new firearms only for the same application to be considered for a new licence as envisaged in section 3 and regulation 13 - is neither sensible nor businesslike. It made an order directing the Designated Firearms Officer responsible for the area in which Fidelity's place of business is situated to accept such applications and deal with them in terms of the Act. Regarding costs, the SCA held that Fidelity was entitled to its costs attended upon the hearing of the appeal on 11 March 2021, but was not entitled to costs up until 5 March 2021. It reasoned that the latter is the date upon which Fidelity abandoned certain parts of the relief it sought and which the Minister had, until that date, been required to expend resources in defending. Consequently, Fidelity was ordered to pay the costs of the appeal up until 5 March 2021.

In this Court the Minister submitted that the SCA erred in its interpretation of the Act in a manner that negates the offence committed by Fidelity, instead elevating the financial prejudice Fidelity stands to suffer over what the Act prescribes. Fidelity submitted that various sections of the Act, read with section 139 of the Act, do not support the Minister's submission that what is required is a surrender of the firearms for the purposes of destruction, without any possibility of the owner applying to renew the terminated licences. Fidelity further submitted that there is nothing in the Act that expressly prohibits the submission of a new application, and thus, the SCA was correct in its findings.

Submissions were also submitted by the four amici curiae, Sakeliga NPC, National Hunting and Shooting Association (NHSA), Professional Hunting Association of South Africa (PHA) and

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Gun Owners South Africa NPC (GOSA). The submissions by NHSA, PHA and GOSA mainly centred around the amnesty process that was previously instituted by the Minister to allow firearm owners whose licences had expired to bring new licence applications while their firearms were held by the South African Police Service and argued how this was a precedent for new applications in respect of firearms whose licences had expired. Sakeliga NPC made submissions that it is inequitable for firearm owners whose licences have expired to be barred → →

From making new applications, while this is not the case for people who have been declared unfit to own a firearm.

In a unanimous judgment, the Court found that the Act indeed contained a mechanism by which a gun owner could regain lawful possession of a firearm, which was an application by the gun owner for a licence to possess the firearm, found in sections 13 to 20 – section 20 being applicable to Fidelity, which required firearms for business purposes. The fact that the gun holder may not have timely applied to renew the licence in terms of section 24 did not in itself mean that the gun holder may not apply for a licence in terms of the applicable provision in sections 13 to 20. Applying for a licence, and applying to renew an existing licence, were different processes, governed by different provisions of the Act.

The Court interpreted section 20, guided by the principle of giving the section its plain and ordinary grammatical meaning. It found that there was nothing in section 20 which excluded, from its scope, a firearm which an applicant currently or previously possessed unlawfully or a firearm in respect of which an applicant previously held a licence which expired. It found that the correct position was that section 20 on its plain and ordinary meaning entitled a person specified in section 20(2) to apply for a licence in respect of any "firearm" that is not a "prohibited" firearm. Since Fidelity met these requirements, it was entitled to make section 20 applications in respect of the firearms at issue in this case

unless this was expressly or impliedly prohibited. The Court found that there was no express prohibition. With regard to an implied prohibition, a statute should be interpreted, as far as

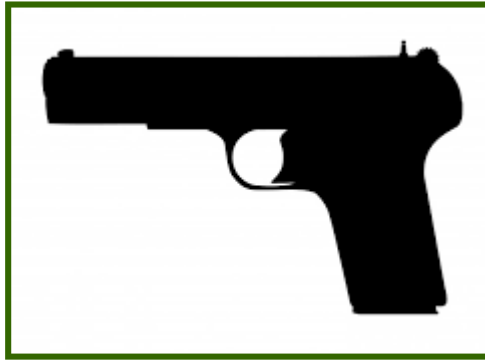


reasonably possible, to avoid creating a gap (lacuna) in the legislative scheme. In giving section 20 its plain and ordinary meaning, the Court was of the view that the supposed gap disappeared. It was stated that this proposed interpretation accords with constitutional values, in particular the property rights guaranteed in section 25 of the Bill of Rights, since it provided a means by which the owner of a firearm could potentially recover lawful possession of it.

In the result, the Constitutional Court ordered that leave to appeal be granted but that the appeal be dismissed. On the strength of *Biowatch Trust v Registrar, Genetic Resources* [2009] ZACC 14; 2009 (6) SA 232 (CC); 2009 (10) BCLR 1014 (CC), the Minister, together with the other applicants (all State functionaries), were ordered to pay Fidelity's costs in the Constitutional Court.

SAGA will update members further on this matter in due course.

3 Practical Pistol Drills for People Who Don't Go to the Range Enough



By Frank Melloni
29 March 2022

Let's be real here: Many (if not most) gun owners don't conduct enough practical pistol training to remain proficient. If you're a "range ghost," lack of time is probably the largest contributing factor. Furthermore, many public ranges are not willing to let their patrons practice the semi-dynamic motions required to realistically practice for a life-or-death encounter.

Here are three drills that can be conducted in less than an hour, and which most ranges will allow (although you should always check with the Range Safety Officer anyway).

Presentation Matters Most

Many ranges simply don't allow holstering or unholstering at their facility, and that's a shame. If you're local to facilities like these, you can still practice the most important part of coming out of a holster, which is the presentation. Here, we'll concentrate on connecting our hands and punching out on target from the low-ready position as quickly as possible.

Simply run a shot timer and work on getting a single shot onto a plain 8.5"x11" sheet of paper hanging at 7 yards. This will roughly represent the "A" zone of a standard IPSC target. A good shooter should be able to respond and place a single shot on target in

under one second. With a single box of ammunition, work on beating that metric and then challenging yourself to smaller scoring zones, less time, or even both.

Iron Out that Flinch

The ball-and-dummy drill is a simple, proven technique that not only illuminates a shooter's flinch but helps them train it away as well. Revolver shooters can set this drill up easily, as all they need are a few pieces of fired brass to get it done. Simply fill most of your cylinder with live rounds of ammunition, and then the empties with spent cases. While looking downrange, spin the cylinder and snap it closed. Next, start a string of fire and see what you do when the hammer drops on an empty cylinder. The answer should be "nothing at all."

If you do indeed see some motion, it is going to become your job to identify the muscles that are reacting and work on retarding their motion as you press the trigger. The reason that this is so important is that your hand is making that same motion when live ammo is fired, it's just being covered up by recoil.

For those wondering why we don't just do this with a cylinder full of dummies at home, live ammo is necessary because your body will not trigger this "fight or flight" mechanism if it knows that the gun isn't going to fire. This is the secret behind why most shooters start off shooting well and then degrade during their range session.

Generally speaking, relaxing your grip is the precursor to a solution. This is because it allows one to isolate the trigger finger's motion, enabling them to move it without the rest of their hand getting involved.

Transitioning to Triumph

Most of us practice shooting with two hands. After all, that's the way we were likely taught. However, in the event of an emergency, there is a good chance that both hands are not going to be free. One of the grimmer reasons for this is that a Condition Black encounter might have you already injured.



Continued: 3 Practical Pistol Drills

Worse, given that we all lead with our strong hand, there is a higher likelihood that this is the hand that will either be in use or get hurt defending yourself. That's why training with our weak hand is an absolute must, as is getting the gun from one hand to the other.

With a 50-round box of ammunition, start your warm-up by firing five rounds with your strong hand, immediately followed by five with your weak hand. With your next 10 rounds practice firing one shot with one hand, and then passing the gun off to the other and firing another. Now, spend the next five rounds working on whichever hand looks like it needs the most work, and then rinse and repeat. If another 50 rounds or so are in your budget, redo the drill, but only fire when the gun is in the hand that you are trying to improve.

The secret to life is making do with the scenario that you are presented with. Often, we shy away from ranges that won't allow us to do exactly what we want or resort to boring, pointless routines. Working in a restrictive facility doesn't automatically limit you to mundane robotic paper punching, which you ought to see as a waste of time and ammo. (There's nothing wrong with doing that if you have plenty of both, but that's not who this article's for.) With a little ingenuity and patience, we can put in some realistic practice to keep our defensive skills sharp, regardless of where we are.

Extracted from:

<https://www.nrafamily.org/content/3-practical-pistol-drills-for-people-who-don-t-go-to-the-range-enough/>

National Hunting Day: 7 May 2022

The Durban Branch of KwaZulu-Natal Hunting & Game Conservation Association hosted a National Hunting Day event on 7 May at NMR in Durban.

A number of local gun shops, shooting ranges and shooting clubs were there and our office staff, Gaye and Peter, manned a SAGA table.

They signed up some new individual members and two new corporate members.

They also fielded many questions and enquiries regarding the current state of affairs i.e. the Class Action Suit, the Constitutional court issues, the CFR and membership to SAGA.



What Your Pistol Target is Trying to Tell You



By Scott Mayer
21 March 2022

Handgun targets can tell you a lot more about how

you shoot than just whether you missed or not. They can also tell you how you hold the gun, how you pull the trigger, if you flinch ... All you have to do is know how to listen to your targets "talk."

Provided your gun is properly sighted, and there are no environmental considerations such as wind to affect the shot, there are eight common shooting errors that can be detected easily from your target: dipping, heeling, thumbing, riding the recoil, too much trigger finger, lobstering, trigger jerking and the basic inability to shoot well.

The following interpretations of "target talk" are specific to right-handed shooters. Lefties simply reverse the areas of the target to hear their targets talk.

The most common is "**dipping**," which is breaking the wrist at the instant the trigger is pulled in anticipation of the recoil. The downward movement of the gun is an unconscious effort to counteract and control the kick. It can be instilled by pretending to shoot an imaginary handgun, and jabbing your finger forward and down much like Bill Clinton used to do when trying to emphasize a point. Bullet holes tend to string vertically below the bullseye.

"**Heeling**," as the name suggests, is pushing on the butt of the gun with the heel of the shooting hand. With that motion, the tendency is to direct shots high and to the right of the bullseye.

"**Thumbing**" is also fairly intuitive sounding, and is when the shooter presses against the side of the gun with the thumb of his or her shooting hand. The pushing causes the muz-

zle to move off in the same direction along with the shots so that bullet holes string horizontally out to the right of the bullseye.

"**Riding the recoil**" is the opposite of dipping, in that the shooter is actually flipping the muzzle up before the recoil starts. It's a recoil-anticipating action and is also instilled by pretending there is recoil when shooting a "finger pistol." Bullet holes tend to string high and to the left when riding recoil.

Bullet holes that tend to string out directly to the left of the bullseye typically indicate that the shooter has too much of his or her finger across the trigger. He or she is thus squeezing at an angle that pushes the gun off in that direction during the final rearward movement of the trigger.

"**Lobstering**" is another way of saying that the shooter is gripping the gun continuously tighter as the trigger is pulled. This squeezing has the opposite effect of heeling, as when the trigger breaks, the tendency is to snatch the gun low and to the right so that bullet holes string out from the bullseye between 3 and 5 o'clock.

"**Jerking**" the trigger usually combines the worst of dipping with the leftward movement of pulling the trigger at an angle. If you're jerking the trigger, your shots will usually string out low and left.

Finally, right- or left-handed, if your shots are simply all over the place with no distinct pattern to where they're hitting, it's time to get a knowledgeable coach and work on the fundamentals.

I hope I've helped you "hear" your target. With few exceptions, most of the shooting errors noted above are induced by anticipation of recoil. If your target is telling you that recoil is ruining your shooting, reduce your loads, and change any bad habits accordingly.

<https://www.nrafamily.org/content/what-your-pistol-target-is-trying-to-tell-you/>



Membership of SAGA

Thank you for supporting SAGA!

By being a member you keep us in 'business' and we are able to continue working for fair and just firearm rights for responsible firearm owners in South Africa.

Do you know someone who supports the right to own a firearm for lawful purposes?

Refer them to SAGA today!

Rates for New Members for 2022:

Adult R260

Junior R160

Pensioner R160

Family:

1x Adult @R260 plus any number of family members @ R70 each

Scan the QR code for a quick link to the SAGA application form or join via our website at www.saga.org.za

Should you have any queries please contact the office on 031-562-9951 or email saga@saga.org.za

SAGA is now available on WhatsApp on our cellphone number **066 003 9226**.

If you would like to send us a query or message, please remember to include your Name and Membership Number (if applicable).



SAGA Corporate Membership

What are SAGA Corporate members?

SAGA Corporate Members are clubs, associations and businesses who actively endorse the work being done by SAGA to protect firearm ownership rights in South Africa.

Join via the SAGA website using the Corporate Application tab on the Join SAGA page or contact the office.



We are **so proud** to have the following as current SAGA Corporate Members:

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