

IN THE HIGH COURT OF SOUTH AFRICA
(NORTHERN-CAPE HIGH COURT, KIMBERLEY)

CASE NO: 4/2018
DATE: 16-03-2018

In the special review judgment of:

THE STATE

VS

KLAAS TOLMAN RIET

CORAM: WILLIAMS J et ERASMUS AJ

J U D G M E N T

WILLIAMS J:

1. The accused Mr KT Riet was convicted in the Magistrates Court, Galeshewe, of a contravention of s106 of Magistrates Court Act 32 of 1944 (contempt of court by wilfully disobeying, refusing or failing to comply with an order of court) and sentenced to:

“12 (twelve) months imprisonment wholly suspended for a period of 3 (three) years on condition accused is not again convicted of a contravention of section 106 of Act 31 of 1944

and to vacate the premises at [...] G. Street, Bokotshong on/before 1 August 2017.”

2. The matter was sent on special review by the presiding magistrate with the request that the sentence be corrected to include the words *“committed during the period of suspension”*.
3. The statutory penalty under s 106 of Act 32 of 1944 is *inter alia* imprisonment for a period not exceeding six months. I therefore enquired from the magistrate how twelve months imprisonment could be justified. The magistrate promptly responded, admitted to an oversight on his part and requested that the twelve months imprisonment imposed be corrected to six months.

The following order is therefore made:

- a) The sentence imposed is set aside and replaced with the following:

“The accused is sentenced to 6 (six) months imprisonment wholly suspended for a period of 3 (three) years on condition that the accused:

(1) is not again convicted of contravening section 106 of Act 32 of 1944 committed during the period of suspension; and

(2) vacate the premises at [...] G. Street, Boikotshang, Galeshewe, on or before 1 August 2017”

C.C WILLIAMS
JUDGE

I concur

SL ERASMUS
ACTING JUDGE