

A 553 /15 /SG

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

DATE: 12 /8 /15

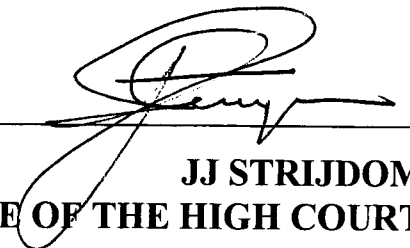
Magistrate 01/15
Case No: 2398/13
High Court Ref No: 194/15
THE STATE V RATS HOPOLANGA MOSIA

REVIEW JUDGMENT

STRIJDOM (AJ)

1. On 19 June 2014 a failure to appear enquiry was held against the accused in the Magistrate Court Middelburg.
2. The Court *a quo* did not accept the accused's explanation and found the accused guilty on failing to appear in court on 17 October 2013.
3. Subsequently the accused was sentenced to a fine of R2000-00 (Two Thousand Rand) or 12 (Twelve) month's imprisonment of which half was suspended for two years on certain conditions.
4. The accused was taken to prison. He subsequently paid the R1000.00 (One Thousand Rand) fine and was released.
5. This matter was sent to this court by the presiding magistrate who requested that the sentence be set aside and is amended as follows:
"R1000.00 or 3 (Three) month's imprisonment.

6. In terms of section 304 (4) of the Criminal Procedure Act 51 of 1977("the CPA") this court is empowered to exercise its review powers if, after sentence by a magistrates' court, it is brought to its notice that the proceedings in which the sentence was imposed were not in accordance with justice.
7. In terms of section 170 (2) of the Criminal Procedure Act, a court can impose a fine not exceeding R300.00 (three hundred rand) or imprisonment of a period not exceeding 3 (Three) months.
8. The Adjustment of Fine's Act 101 of 1991 applies and the amount in terms of this Act may exceed R5000-00. The Act however states that the fine is determined by the maximum imprisonment that can be imposed to it.
9. In term of the Adjustment Act the court could have adjusted the amount of the fine but not the period of imprisonment.
10. The following order is made.
 - 10.1 The sentence of R2000-00(Two Thousand Rand) or 12 (Twelve) months imprisonment of which half was suspended for two years is set aside and substituted with a sentence of R1000-00 (One Thousand Rand) or 3 (Three) months imprisonment.



JJ STRIJDOM
ACTING JUDGE OF THE HIGH COURT

I agree,



PM MABUSE
JUDGE OF THE HIGH COURT