

IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Review No. : 246/2014

In the case between:

THE STATE

and

MOTJAPI JOHANNES MONYAKE

CORAM: C.J. MUSI, AJP et MOCUMIE, J

JUDGMENT: C.J. MUSI, AJP

DELIVERED ON: 19 FEBRUARY 2015

[1] This is an automatic review. The accused was convicted of contravening section 4 (3) of Act 4 of 2005 by conveying passengers, in a private vehicle, for reward. He was sentenced as follows:

“R1000.00 or 4 (four) months imprisonment wholly suspended for a period of 3 (three) years on condition that accused is not convicted of contravention of section 4 (3) of Act 140 of 1992 committed during the period of suspension...” (My underlining)

[2] I asked the magistrate whether there is a link between the conviction and the condition of suspension.

- [3] The magistrate replied that it was an oversight and that she intended to write section 4 (3) of Act 4 of 2005.
- [4] It is clear that the magistrate used the wrong Act because Act 140 of 1992 is the Drugs and Drug Trafficking Act, which has nothing to do with the transportation of passengers for reward.
- [5] The condition of suspension ought to be corrected. The sentence should also be adjusted because the imprisonment part is disproportionate to the fine.
- [6] I therefore make the following order:
- a) The conviction is confirmed.
 - b) The sentence is set aside and replaced with the following:
R1000.00 or 20 (twenty) days imprisonment which is suspended for 3 (three) years on condition that the accused is not convicted of contravening section 4 (3) of Act 4 of 2005 committed during the period of suspension.

C.J. MUSI, AJP

I concur.

B.C. MOCUMIE, J