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NOT REPORTABLE

IN THE NORTH GAUTENG HIGH COURT,
PRETORIA REPUBLIC OF SOUTH AFRICA

CASE NO: 425/13

CASE NO: A514/2013

DATE:12/07/2013

In the matter between:

THE STATE

and

L M

Accused

JUDGMENT

Tuchten J:

1. The accused was charged in the Magistrate's Court in Lydenburg with a co-accused, S L, with two counts of robbery. They were both convicted and sentenced to undergo imprisonment for twelve months.

2. The case came before Potterill J on automatic review. The learned reviewing judge observed that the charge sheet reflected that the date of birth of the accused, M, was

given as 11 May 1996 which would have made him 16 years old when he committed the crimes and that if this was indeed so, the accused should have been dealt with under the Child Justice Act.

3. The trial magistrate agreed with the learned reviewing judge and asks that the proceedings against the accused M be set aside and commenced de novo in terms of the provisions of the Child Justice Act. I agree. In relation to the co-accused, the proceedings were in accordance with justice and will accordingly be confirmed.

4. I therefore make the following order:

1. The conviction of and sentence imposed upon L M in Lydenburg Magistrate's Court case no 040/12 are hereby set aside.

2. The case against the accused L M is remitted to the magistrate to be commenced de novo. In the further proceedings against LM, the magistrate must have regard to and apply the provisions of the Child Justice Act, 75 of 2008.

3. The conviction of and sentence imposed on SL, who was tried together with LM, are hereby confirmed.

NB Tuchten

Judge of the High Court 9 July 2013

SP Mothle

Judge of the High Court 9 July 2013