

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Review No.: 97/2013

In the review between:

THE STATE

and

DAVID SHAU

CORAM: KRUGER, J *et* ZIETSMAN, AJ

JUDGMENT BY: ZIETSMAN, AJ

DELIVERED ON: 27 JUNE 2013

[1] This case came before us as a special review in terms of section 304(4) of the Criminal Procedure Act, 51 of 1977. It was sent together with review number 96/2012, the State v Huhu as the aforementioned matters dealt with the same issue, namely that the magistrate worded a condition of suspension by incorporation of section 300 (compensation order), which should not have been done.

[2] In review 96/2012, Jordaan J and Fischer AJ delivered a judgment on 16 May 2013 which altered condition (ii) of the

sentence in that the reference to section 300 of Act 51 of 1977 was substituted by section 297(1)(a)(i)(aa) of the Criminal Procedure Act, 51 of 1977. The only difference between the two matters was the amount of compensation ordered. In the present matter, S v David Shau, the magistrate ordered payment of compensation in the amount of R10 000,00 in instalments of R600,00 a month, the first instalment to be on the 1st of March 2013.

[3] The regional magistrate requests that the sentence be amended by the deletion of the reference to section 300 of Act 51 of 1977. I am in agreement with the acting regional magistrate.

[4] The following order is made:

The sentence imposed is altered with specific reference to condition (ii) which is now to read as follows:

“(ii) That the accused compensate the complainant in terms of section 297(1)(a)(i)(aa) of the Criminal Procedure Act, 51 of 1977 in the amount of R10 000,00 (ten thousand rand).

Such amount is payable in monthly instalments of R600,00 (six hundred rand) per month at the clerk of the court, Magistrate's Court Bloemfontein. The first instalment is payable on or before the 1st March 2013 with the remaining instalments on or before the 1st day of each succeeding month until such amount is paid in full."

P. ZIETSMAN, AJ

I concur.

A. KRUGER, J

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