

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

In the matters between:

Review No: 58/2011

THE STATE

and

LERATO ALINA MOHAPI

JUDGMENT BY: KRUGER, J

DELIVERED ON: 14 APRIL 2011

[1] This is a review under section 302 of Act 51 of 1977. The accused was on 6 December 2010 convicted on her plea of guilty of assault with intent to do grievous bodily harm in the magistrates' court at Zastron and sentenced to 9 months' imprisonment, wholly suspended and further given a fine of R1 500,00 or 3 months' imprisonment. The J4 does not indicate whether the fine was paid. The review was only received by the registrar on 9 February 2011 as a result of the fact that the transcribed record was only received from the recording company on 28 February 2011.

[2] In answer to questions under section 112(1)(b) by the

magistrate the accused said that she and the complainant were fighting and that she did not intend to injure the complainant. Jordaan J asked the magistrate whether the accused admitted all the elements of the offence. The magistrate agrees that a plea of not guilty in terms of section 113 of Act 51 of 1977 should have been recorded.

[3] The following order is made:

In terms of section 312 of Act 51 of 1977 the conviction and sentence are set aside and the magistrate is directed to record a plea of not guilty as contemplated in section 113 of Act 51 of 1977.

A. KRUGER, J