

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Case No: 294/2011

In the review between:

THE STATE

and

MOEKETSI TSOLO

JUDGEMENT BY: MATHEBULA, AJ

DELIVERED ON: 1 SEPTEMBER 2011

[1] The matter was sent on special review by the magistrate, Bloemfontein. The accused was convicted of contravening Section 5(B) of Act 140 of 1992 (Dealing in Dagga). The following sentence was imposed:-

“R4000.00 (four thousands rand or 12(twelve) months imprisonment which is wholly suspended for period of 5(five) years on condition accused is not again found guilty of contravening SECTION 5(B) ACT 140/92 committed during period of suspension. In terms of SECTION 103(1) ACT 60/2000 accused is declared unfit to possess firearm. Dagga declared forfeited to the State.”

[2] The magistrate correctly points out that he imposed an incomplete sentence. See **S v MOSOLOTSANE** 1993 (1) SACR 502 (O) at 503e – h. The sentence ought to be set aside.

[3] Usually in matters of this nature, the matter must be referred to the magistrate for the imposition of a competent sentence.

[4] I make the following order:-

4.1 The conviction is confirmed.

4.2 The sentence is set aside and the matter is remitted to the magistrate so that he could impose a competent sentence.

M.A. MATHEBULA, AJ