

**IN THE HIGH COURT OF SOUTH AFRICA (NORTH
GAUTENG PROVINCIAL DIVISION)**

DATE: 6 March 2009

MAGISTRATE MIDDELBURG

Case No: 1893/2008

Magistrate's serial no: 33/08

High Court Ref No: 22

THE STATE VS SIMON MAKUA

REVIEW JUDGMENT

BOTHA J:

This is a special review. The accused was convicted of assault with intent to do grievous bodily harm.

The accused pleaded guilty and he was found guilty on the basis of a written plea explanation submitted by his attorney.

The accused was sentenced to six months' imprisonment but it was ordered that he be released on condition that he perform community service under the supervision of a correctional officer.

2

The magistrate sent the matter on special review asking that the sentence be replaced by a sentence of six months' imprisonment suspended on the conditions set out in the sentence.

The magistrate clearly intended to impose a suspended sentence, but his formulation did not quite achieve that effect.

I shall substitute a sentence as suggested in the memorandum of the state advocates.

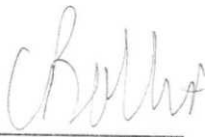
The following order is made:

1. The conviction is confirmed.
2. The sentence imposed by the magistrate is set aside and the following sentence is substituted for it:

"In terms of section 297(1 (b) of the Criminal Procedure Act, 1977 (Act 51 of 1977) the accused is sentenced to **6** (six) months imprisonment in whole

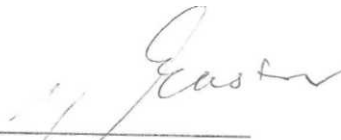
suspended for a period of 3 (three) years on condition that (i) the accused perform 16 (sixteen) hours of community service, without remuneration and outside the prison, for a period of 6 (six) months under the supervision of Correctional Services. Such community service to consist of cleaning and/or gardening, to be rendered at Laersdrift Police Station on Thursdays between 08:00 and 16:00; (ii) the accused must attend and complete a conflict management program and an anger management program and a relationship program and a HIV/AIDS program; (iii) the accused must report to the Correctional Officer at Belfast on 21 November 2008 at 08:00; (iv) the accused may not change his residential address without prior notification to Commissioner of Correctional Services".

C BOTHA



JUDGE OF THE HIGH COURT

I agree



C.J
EKSTEEN
ACTING
of" THE HIGH COURT