

A398/2009
15/05/2009.

IN THE HIGH COURT OF SOUTH AFRICA
(NORTH-GAUTENG HIGH COURT, PRETORIA)

High Court Ref no.: 218
Magistrate Serial no.: 04/09
Case no.: A16/09

IN THE MATTER BETWEEN

THE STATE

v

TIMMY FIKILE MAKONDO

WHICHEVER IS NOT APPLICABLE	
(1) PORTABLE: YES/NO	☒ YES
(2) OF INTEREST TO OTHER JUDGES: YES/NO	☒ YES
(3) REVISED	
12/05/09	
DATE	SIGNATURE

REVIEW JUDGMENT

Legodi J,

When this matter was initially brought before me, I directed certain queries to the trial court. These queries were with reference to whether intention to do grievous bodily harm has been proved and secondly, whether the accused had properly made a choice to proceed with the trial without legal representation.

The trial court and the Office of the Director of Public Prosecutions had now made comments on the issues I had previously raised and I am satisfied that the conviction was in accordance with justice.

The accused who was about 19 years old and a scholar doing grade 12 was sentenced to R2000 or six months imprisonment. During sentencing, the accused indicated that he could afford to pay R200. He was a first offender. He was sentenced on the 12 January 2009 and apparently could not afford to pay the fine. For this reason, Advocate L A More and H M Meintjies SC of the

Office of the Director of Public Prosecutions, recommended that half of the sentence be suspended which will have the effect of the accused been entitled to an immediate release. I agree and the accused's release has already been ordered.

Accordingly, I would make an order as follows:

1. The conviction of the accused is confirmed.
2. The sentence is hereby set aside and substituted as follows:

"The accused is sentenced to R2000 or 6 months imprisonment, half of which is suspended for a period of three years on condition that the accused is not found guilty of an assault with intent to do grievous bodily harm committed during the period of suspension"

3. The accused if not released yet should immediately be released from prison unless otherwise detained in connection with another case.


M F LEGODI
JUDGE OF THE HIGH COURT

I, agree it is so ordered


W L SERITI
JUDGE OF THE HIGH COURT