

IN THE HIGH COURT OF SOUTH AFRICA
(ORANGE FREE STATE PROVINCIAL DIVISION)

Review No.: 421/08

In the review between:

THE STATE

and

MALAHLEHI DANIEL SEPHIRI

CORAM: EBRAHIM, J *et* VAN DER MERWE, J

JUDGEMENT: EBRAHIM, J

DELIVERED ON: 7 AUGUST 2008

[1] This is a special review in terms of section 304(4) of the Criminal Procedure Act 51 of 1977.

[2] The presiding officer, an acting magistrate, convicted the accused on his plea of guilty to a charge of assault and sentenced him to 30 (thirty) days imprisonment which was then conditionally suspended for three years. In terms of section 112(1)(a) of the CPA of 1977 the sentence is wholly incompetent in view of the fact that the conviction followed upon a mere plea of guilty.

[3] As the proceedings were not conducted in accordance with justice I order the sentence be set aside and substituted with the following sentence:

A fine of R100,00 or 10 (ten) days imprisonment wholly suspended for 12 (twelve) months on condition that the accused is not convicted of the crime of assault committed during the period of suspension.

S. EBRAHIM, J

I concur.

C.H.G. VAN DER MERWE, J