

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

Review No.: 423/08

In the review between:

THE STATE

and

ISAAC BOBBY HLAHANE

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 in terms of section 112(1)(a) of the Criminal Procedure Act 1977 of being in possession of 20 grams of cannabis and sentenced him to undergo 60 (sixty) days imprisonment which was wholly suspended conditionally for three years. The sentence is clearly incompetent in light of the provisions of section 112 (1)(a)(i).

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

A sentence of R300,00 or 30 (thirty) days imprisonment is imposed, wholly suspended for 3 (three) years on condition that the accused is not convicted of a contravention of subsection 4(b) of the Drugs and Drug Trafficking Act 140/1992 committed during the period of suspension.

S. EBRAHIM, J

I concur.

C.H.G. VAN DER MERWE, J