

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

Review No.: 1174/2006

In the review between:

THE STATE

and

MAHAPA TSEKI

Accused No. 1

DIRA MAKOKO Accused No. 2

CORAM: CILLIé, J *et* EBRAHIM, J

JUDGEMENT: EBRAHIM, J

DELIVERED ON: 1 MARCH 2007

- [1] The two accused in this matter were convicted of dealing in a dependence producing substance to wit cannabis and convicted of contravening section 5(b) of the Drugs and Drug Trafficking Act No. 140 of 1992. The quantity involved was 106 kg. Both accused were sentenced to pay a fine of R2 500,00 or to undergo imprisonment for a period of 12 months; R500,00 or 3 (three) months imprisonment was suspended for a period of 3 (three) years on condition

the accused were not again convicted of contravention of section 4(b) of Act 140 of 1992 committed during the period of suspension.

[2] The matter was placed before me by way of ordinary review and I addressed a query to the magistrate calling for reasons for the sentence imposed, in light of the fact that section 17(e) of the Drugs and Drug Trafficking Act 1992 provided for a sentence of imprisonment to be imposed for such a conviction.

[3] The learned magistrate graciously accepted that he had misconceived the provisions of section 17(e) of the said Act and that the sentence was accordingly improper. In light of this concession the sentence aforesaid is set aside and the matter is remitted to the learned magistrate for sentencing afresh.

I concur.

C.B. CILLié, J

/sp