

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

Review No. : 159/2007

In the review between:-

THE STATE

versus

MBUZENI MCHUNU

CORAM: HATTINGH J *et* VAN DER MERWE J

JUDGMENT BY: VAN DER MERWE J

DELIVERED ON: 30 MARCH 2007

[1] The accused in this matter was correctly convicted of dealing in 58,1 kilogram dagga in contravention of the provisions of section 5(b) of the Drugs and Drug Trafficking Act, No. 140 of 1992 ("the Act"). He was then sentenced to a fine of R4 000,00 or 24 (twenty four) months imprisonment.

[2] Upon enquiry the magistrate acknowledges that the

sentence is incompetent as section 17(e) of the Act obliged the magistrate to impose a sentence of imprisonment, albeit suspended and with or without a fine with alternative imprisonment in default of payment of the fine.

[3] The magistrate proposes that the sentence be set aside and the matter be remitted to the magistrate for the imposition of sentence afresh. I agree and it is so ordered.

C.H.G. VAN DER MERWE, J

I agree.

G.A. HATTINGH, J

/sp