

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

Review No. : 475/2006

In the review between:

THE STATE

versus

SAINETTE MASHININI

CORAM: BECKLEY J *et* KRUGER J

JUDGMENT BY: BECKLEY J

DELIVERED ON: 11 MAY 2006

- [1] The accused was convicted of the contravention of Section 72(4) of Act 51 of 1977 in that he failed to appear before the court. He was sentenced to a fine of R600,00 or 3 (three) months imprisonment. The presiding magistrate has now submitted the proceedings to this Court for purposes of a special review, having regard to the fact that the accused was only 17 years of age at the time and that he was

sentenced without a pre-sentencing report having been obtained.

[2] I respectfully agree that the sentence should be set aside and that the matter should be referred back to the presiding officer for purposes of finalising the matter once a pre-sentencing report has been obtained. The presiding officer's attention is also directed to the fact that the maximum sentence in the event of a contravention of Section 72(4) of Act 51 of 1977 is R300,00 or 3 (three) months imprisonment.

[3] The conviction is therefore confirmed. The sentence is set aside and the matter is referred back to the presiding officer to consider sentence afresh on receipt of a pre-sentence report.

A.P. BECKLEY, J

I agree.

A. KRUGER, J

/sp