

Reportable:

YES/NO

Circulate to Judges:

YES/NO

Circulate to Magistrates:

YES/NO

Circulate to Regional Magistrates:

YES/NO

**IN THE HIGH COURT OF SOUTH AFRICA
(NORTHERN CAPE DIVISION)**

CASE NO: C1008/06

Review Nr: 64/06

Date Delivered: 03/11/2006

In the matter between:

THE STATE

VERSUS

HENDRIK FARREL

CORAM: TLALETSI AJP et MOLWANTWA AJ

JUDGMENT ON SPECIAL REVIEW

MOLWANTWA AJ:

INTRODUCTION

1. The Senior magistrate of Upington sent this case on special review because he is of the view that the accused's plea to the charge of assault common "disclosed a valid defence." The accused pleaded guilty. A statement in terms of section 112 of the Criminal Procedure Act 51 of 1997 was read into the record by his legal representative. He was convicted as charged based on the admissions he made in the statement

and was sentenced to R300.00 or 1 month imprisonment suspended conditionally.

2. The background to this case as gleaned from his s112 statement is as follows: The accused was at his home in Upington on 1 April 2006 when two police officers arrived and attempted to arrest him. They did not tell him what offence he had allegedly committed. Instead they pulled him to the police van. He hit one of them, the complainant, Jan Matthys with a fist and head-butted him. According to the accused they were arresting him wrongfully so he resisted the arrest. He admitted that he acted unlawfully as he knew he had other remedies available in the event that the police were wrongful in their own conduct.
3. This statement was made by the accused assisted by his legal representative. It was duly signed by the accused after he confirmed the contents thereof. There is no indication whatsoever that the accused misunderstood anything. There is no indication that the legal representative did not represent the wishes of his client. *Ex facie* the statement all the elements of the offence have been addressed adequately. I do not see any reason to set these proceedings aside.
4. In the light of what I have said on the conviction and merits of this matter I find that the case is not reviewable.

In the circumstances I make the following order:

ORDER

The case is not reviewable. The conviction and sentence imposed by the Magistrate are confirmed.

**B C MOLWANTWA
ACTING JUDGE OF THE HIGH COURT
(NORTHERN CAPE DIVISION)**

I concur.

**L P TLALETSI
ACTING JUDGE PRESIDENT OF THE HIGH COURT
(NORTHERN CAPE DIVISION)**