

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

Review No. : 413/2005

In the review between:

THE STATE

versus

SIVUYILE SIDWELL JARA

CORAM:

CILLIé J *et* EBRAHIM J

JUDGEMENT:

EBRAHIM J

DELIVERED ON:

12 MAY 2005

[1] This matter was placed before me by way of ordinary review procedure.

[2] On consideration, it became apparent that the sentence imposed by the learned magistrate was improper in that it did not comply with the provisions of section 17E of Act 140/1992 - (The Abuse of Dependence Producing Substances Act 1992) which compels a sentence of

imprisonment to be imposed on an offender convicted of the offence of dealing in dagga (section 5(b) of Act 40/1992).

[3] The learned magistrate has conceded that the sentence is not competent and that it ought to be set aside.

[4] It is accordingly ordered that the sentence imposed be set aside and substituted with the following sentence:

18 (Eighteen) months imprisonment wholly suspended for 3 (three) years on conditions that accused is not convicted of contravention of Section 5(b) Act 140 of 1992 committed during period of suspension and a further R5 000,00 (Five thousand Rand) or 18 (eighteen) months imprisonment.

S. EBRAHIM, J

I concur.

C.B. CILLIÉ, J

/sp