

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

Review No.: 563/2005

In the case between:

THE STATE

and

HENDRICK MASAO SEBOKO

CORAM: BECKLEY J *et* RAMPAL J

JUDGEMENT: BECKLEY J

DELIVERED ON: 17 JUNE 2005

[1] The accused was convicted of possessing 3,8kg dagga in the magistrate's court at Ficksburg. He pleaded guilty and was sentenced to a fine of R1 500,00, or 9 months imprisonment. When a copy of the proceedings were received for automatic review, it appeared that, in another matter, the state versus Serama Matsoai, the accused was convicted of dealing in 5,95kg dagga and was sentenced to a R1 000,00 or 6 months imprisonment, half of which was

suspended for a period of two years on certain conditions.

- [2] Because of the disparity between the two sentences, the disparity being exacerbated by the fact that the accused in the present case was convicted of the lesser offence, namely, being in possession of dagga, and the fact that half the sentence was suspended in the case of state versus Serama Matsoai, the presiding magistrate was requested to furnish reasons for the disparity. The “temporal magistrate: Ficksburg” conceded in the reasons that she furnished for the disparity, that the sentence in the present case is not appropriate. The concession made by the magistrate is obviously in order and it stands to reason that this court is in duty bound to interfere with the sentence. The sentence proffered by the presiding magistrate in her reasons, is that the sentence be replaced with one of a fine of R800,00, or 4 months imprisonment. I agree with the suggestion of the magistrate. In the result, the following order is made:

The conviction is confirmed. The sentence is set aside and replaced by a sentence of R800,00 or 4 months imprisonment.

A.P. BECKLEY, J

I concur.

M.H. RAMPAL, J

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