

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

Review No.: 316/2004

In the review between:

THE STATE

and

PENTE JOSEPH MOTHIBELI

CORAM: **VAN COPPENHAGEN et WRIGHT, JJ**

JUDGMENT BY: **WRIGHT, J**

DELIVERED ON: **13 MAY 2004**

In this matter the accused was convicted of the contravention of section 4(b) of Act 140 of 1992 and sentenced to a fine of R2 000,00 or 6 months imprisonment wholly suspended on certain conditions. He pleaded guilty but no questioning took place in terms of section 112(1)(b) of Act 51 of 1977. The Magistrate asked the reviewing Judge to set aside the conviction and sentence as he erred by failing to comply with the provisions of section 112(1)(b).

The conviction and sentence are therefore set aside. In terms of the provisions of section 312 of the Criminal Procedure Act, the matter is remitted to the Court *a quo* and the Court directed to comply with the provisions of section 112 of Act No. 51 of 1977 or to act in terms of section 113, as the case may be.

G.F. WRIGHT, J

I CONCUR

G. VAN COPPENHAGEN

/scd