

Reportable: Yes / No
Circulate to Judges:
Yes / No

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IN THE HIGH COURT OF SOUTH AFRICA

(Northern Cape Division)

High Court Review Case No: 340/04

Magistrate Case No: L63/04

Date delivered: 2004-09-03

In the review matter of:

THE STATE

versus

ALFRED JANES

ACCUSED

Coram: MAJIEDT J et LACOCK J

JUDGEMENT ON REVIEW

MAJIEDTJ:

1. The accused was convicted of a contravention of the provisions contained in section 5(b) of Act 140 of 1992 i.e. unlawful dealing in dagga. He was sentenced to a fine of R2000.00 or in default of payment to 6 months imprisonment. The entire sentence was suspended for a period of 5 years on certain conditions.
2. I had queried the magistrate on automatic review as follows:

Was the magistrate correct in invoking the provisions of sec. 112(1)(a)?

The sentence (fine) imposed exceeds the statutory limit determined by the Minister in Government Notice R239 of 14 February 2003 in Government Gazette nr. 24393 which was fixed in the sum of R1500.00

The magistrate has now conceded in reply that he has erred insofar as the fine exceeds the statutory limit determined by law and requests that the fine imposed be

reduced in accordance with the prescribed statutory limit.

3. As indicated in my review query, quoted above, the statutory limit determined by the Minister, is R1500.00. Consequently the concession by the magistrate is well made and the sentence imposed should be corrected accordingly.

4. I make the following order:

4.1 The accused's conviction is confirmed.

4.2 The sentence imposed is set aside and substituted with the following: THE ACCUSED IS SENTENCED TO PAY A FINE OF R1500.00 (ONE THOUSAND FIVE HUNDRED RAND) OR IN DEFAULT OF PAYMENT TO UNDERGO 6 (SIX) MONTHS IMPRISONMENT. THE ENTIRE SENTENCE IS SUSPENDED FOR A PERIOD OF 5

**(FIVE) YEARS ON CONDITION THAT THE
ACCUSED IS NOT CONVICTED OF
CONTRAVENING SECTION 5(b) READ WITH
SECTION 1, 13, 17, 18, 20, 21 AND 25 OF ACT
140/1992 OR SECTION 4(b) READ WITH
SECTIONS 1, 13, 17, 18, 20, 21 AND 25 OF ACT
140/1992 WHICH IS COMMITTED DURING THE
PERIOD OF SUSPENSION.**

4.3 THE SENTENCE IS ANTEDATED TO 20 JULY 2004.

**SA MAJIEDT
JUDGE**

I concur.

HJ LACOCK

JUDGE