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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

**CORRECTED 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. After issuing the previous order, my attention has been drawn to the fact that the sentence does not accord with the provisions contained in sec. 17(e) read with sec. 13(f) of Act 140 of 1992, which stipulates a sentence of imprisonment or imprisonment **and** a fine for contraventions of sec. 5(b) of the said Act
5. Due to this patent error, the sentence stands to be corrected in terms of the powers contained in Uniform

Rule 42(1)(b).

6. I issue the following corrected order:

**6.1 The accused's conviction is confirmed.**

**6.2 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) and 6 (SIX) MONTHS IMPRISONMENT, BOTH OF WHICH ARE SUSPENDED FOR A PERIOD OF 5 (FIVE) YEARS ON CONDITION THAT THE ACCUSED IS NOT CONVICTED OF CONTRAVENTING 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.**

### **6.3 THE SENTENCE IS ANTEDATED TO 20 JULY 2004.**

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**SA MAJIEDT  
JUDGE**

**I concur.**

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**HJ LACOCK  
JUDGE**