

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: SS63/2016

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED: YES/NO
4/11/2025	
DATE	SIGNATURE

In the matter between:

RADEBE ZAMASWAZI AUDREY

Applicant

and

STATE

Respondent

This Judgment was handed down electronically by circulation to the parties/their legal representatives by email and by uploading to the electronic file on Case Lines. The date for hand-down is deemed to be 04 November 2025.

JUDGMENT

MAKAMU, J

[1] This matter is an application in terms of section 276A (3)(d) and section 276A (3)(a)(ii) of the Criminal Procedure Act.¹ The applicant, through the *amicus curiae*, De Beer Incorporated Criminology and Restorative Justice Practitioners, applies for the conversion of the sentence of five years' direct imprisonment to correctional supervision under section 276(1)(h) of the CPA.

[2] Section 276(1)(h) of the CPA provides that:

“(1) Subject to the provisions of this Act and any other law and of the common law, the following sentence may be passed upon a person convicted of an offence, namely

–

(h) correctional supervision”.

[3] Section 276A of the CPA provides for the imposition of correctional supervision, and conversion of imprisonment into correctional supervision and subsection (3) provides further –

“(a) Where a person has been sentenced by a court to imprisonment for a period-

(i) not exceeding five years; or

(ii) exceeding five years, but his date of release in terms of the provisions of the Correctional Services Act, 1959 (Act 8 of 1959), and the regulations made thereunder is not more than five years in the future,

and such a person has already been admitted to a prison, the Commissioner or a parole board may, if he or it is of the opinion that such a person is fit to be subjected to correctional supervision, apply to the clerk or registrar of the court, as the case may be, to have that person appear before the court *a quo* in order to reconsider the said sentence”.

[4] It is important to refer to these pieces of legislation before delving into the merits of the application. Section 73 of the Correctional Services Act² provides that a sentenced offender may be placed under correctional supervision, day parole, parole, or medical parole before the expiration of his or her term of incarceration.

¹ 51 of 1977 (“CPA”).

² 111 of 1998.

- [5] The applicant did not appear personally but gave the *amicus curiae* written permission to bring the application on her behalf. The applicant submitted reports from the Probation Officer and the Corrections Officer confirming that she has family support and has completed the necessary programs mandated by Correctional Services to prepare her for reintegration into the community. Therefore, she will be easy to place under correctional supervision and monitor during her correctional supervision, if it is granted.
- [6] The *amicus curiae* further submitted further that a victim-offender dialogue (VOD) was conducted, and it was emphasised that the offence was committed against the state, as SARS collects revenue from taxpayers; thus, every taxpayer is indirectly a victim of this crime.
- [7] The charges that the applicant was convicted of related to the contravention of provisions of the Prevention of Organised Crime Act (counts 1 to 3), and each count carries a minimum of fifteen years' imprisonment. Counts 109 to 228 carry a minimum of fifteen years' imprisonment for each count.
- [8] The court *a quo* considered compelling and substantial circumstances, imposed only five years' imprisonment on each count, and, above that, ordered the sentences to run concurrently, resulting in her serving only five years' imprisonment – a ridiculously low sentence.
- [9] The state, in its reply, indicated that the *amicus* did not adequately address many issues and that there were some inaccurate submissions, such as the claim that they consulted with the victim, being SARS. A SARS official deposed to an affidavit refuting the claims, stating that no one at SARS knew of the VOD referred to by the *amicus*.
- [10] The *amicus* stated that they believed what they were told by members of the correctional centre; however, it is very clear that the *amicus* was disingenuous in their submission, as they sought to have the court believe something that was not true.
- [11] The state could not really oppose nor object to the application nor concede that the applicant indeed deserved such reconsideration of her sentence. When the

amicus realised they had their back against the wall, they suggested withdrawing their application, and this was done half-heartedly. The state argued that the application could be dealt with to finality based on the documents submitted.

[12] I decided that the application deserved finality, and I thus penned this judgment. The applicant was extremely fortunate not to have received at least twenty-five years of direct imprisonment and still wants the court to bend backward to be even more lenient.

[13] I find it an abuse of the court system, which is already burdened with an insurmountable workload. The time spent adjudicating this application could have been best utilised in disposing of deserving cases.

[14] The applicant submitted that an attempt to get this sentence interfered with on appeal failed after a leave to appeal application in the trial court and Supreme Court of Appeal were both dismissed as there were no prospects of success.

[15] To expect the court to reduce an already lenient sentence to a correctional supervision is very unfortunate and risks eroding the public's confidence in the criminal justice system.

[16] The applicant was found to have enabled the syphoning of over R 6 000 000.00 from SARS through her entity, and now essentially seeks a slap on the wrist, which would make a mockery of justice.

[17] The provisions of the CPA are meant for deserving cases, not to abuse the criminal justice system. What is more concerning is that the *amicus* seems not to have all its facts right before approaching the court.

[18] Having read the papers submitted by the *amicus curiae* and having heard both the applicant and the state, there seems to be no other alternative but to dismiss the application.

Order

[19] The application for reconsideration of the sentence is dismissed, and the sentence passed is confirmed and stands.



M S MAKAMU
JUDGE OF THE HIGH COURT
JOHANNESBURG

APPEARANCES

Counsel for the Applicant: Mr. D de Beer

Instructed by: De Beer Attorneys

Counsel for the State: Adv. Serame

Instructed by: National Prosecuting Authority

Date of hearing: 13 October 2025

Date of judgment: 4 November 2025