

SOUTH AFRICA / JUDGMENT

S v Hlatswayo (A104/12) [2017] ZAGPPHC 912 (9 March 2017)

[2017] ZAGPPHC 912

COURT

North Gauteng High Court, Pretoria

BEFORE

S Potterill

CASE / FILE NUMBER

A104/12

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OFFICE OF THE CHIEF JUSTICE

(REPUBLIC OF SOUTH AFRICA)

High Court Ref. No. H3/17

Magistrates serial no. H3/20127

Case no.

A222/873/16

THE STATE

VERSUS

BAFANA JOSEPH HLATSWAYO

REVIEW JUDGEMENT

1. The accused was convicted of contravention 1Df section 1(1)(a) of the Trespass Act 6 of 1959 and sentenced to 3 three years imprisonment.
2. The matter was subsequently, in terms of the 11 provisions of section 304(4) of the Criminal Procedure Act, forwarded by the Chief

Magistrate of Pretoria to be reviewed.

3. The ground for review is that the imposed 3 years imprisonment exceeds the prescribed limit of (2) two years provided for in Section 2 of the Trespass Act.
4. This was clearly an oversight, admitted by the trial Magistrate, and the sentence should be set aside.

5. The Chief Magistrate also remarked that the accused was (incorrectly) convicted of contravention of section 1(1)(a) in that there is "no subsection 1 in section 1". A careful reading of the Act reveals that there is indeed a section 1(1)(a). Accordingly there was nothing wrong with the charge sheet and the conviction.

ORDER:

- (a) The sentence of (3) three years imprisonment is reviewed and set aside.
- (b) The matter is remitted to the trial Magistrate to impose sentence afresh in the presence of the accused.

AJBAM

S POTTERILL

JUDGE OF THE HIGH COURT

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