

SOUTH AFRICA / JUDGMENT

S v Jwara (A841/2015) [2015] ZAGPPHC 890 (12 November 2015) [2015] ZAGPPHC 890

COURT

North Gauteng High Court, Pretoria

BEFORE

H.J Fabricius, J.J Strijdom

CASE / FILE NUMBER

A841/2015

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: A841/2015

DATE: 12 NOVEMBER 2015

In the matter between:

THE STATE

VS

BULELANI JWARA

Review Case Number: 575/1 C92U/15

REVIEW JUDGMENT

Fabricius J,

The acting Senior Magistrate of Springs has submitted this case on special review on the grounds that the sentence is not in accordance with justice.

On 12 February 2015, in case C13U0/1U, the accused was sentenced on one count of contravention of section 4

(b) of the Drugs and Drug Trafficking Act 140 of 1992 to a fine of R 5000 or 12 months imprisonment.

On 21 May 2015 the accused was released on parole and placed under correctional supervision.

On 29 September 2015, in case C92*/15, the accused was sentenced on one count of contravention of section 4

- (b) of the Drugs and Drug Trafficking Act 140 of 1992 to 12 months imprisonment. It was ordered in terms of section 280 (2) of Act 51 of 1977 that the 12 months imprisonment must be served concurrently with any other sentences.

During the sentencing process the prosecutor informed the Court that the accused was released on parole but his parole was revoked and he is currently serving his sentence imposed on U February 2015.

In my view it is competent for a Court to direct that a sentence of imprisonment without the option of a fine may run concurrently with a sentence of a fine with alternative imprisonment in terms of section 280 (2) of the Criminal Procedure Act 51 of 1977.

See: S v Hatton 1998 (2) SACR 474 ECD.

It is, however, only the imprisonment option in the sentence that can run concurrently and the Court wishing to order concurrency in such a case must ensure that it states that the sentences will run concurrently only if the imprisonment is served.

The order that is made is the following:

The sentence is set aside and replaced with the following:

1. Twelve (12) months imprisonment;
2. The Court orders that this sentence run concurrently with the sentence imposed in case C1340/14, if this fine is not paid.

JUDGE H.J FABRICIUS

JUDGE OF THE HIGH COURT GAUTENG DIVISION PRETORIA

And I Agree

JUDGE J. J. STRIJDOM

ACTING JUDGE OF THE HIGH COURT GAUTENG DIVISION PRETORIA

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Prepared on 9 October 2026 · Esheria