

SOUTH AFRICA / JUDGMENT

S v Molefi (1287/2005) [2005] ZAFSHC 142 (3 November 2005) [2005] ZAFSHC 142

COURT

Free State High Court, Bloemfontein

BEFORE

G.F. Wright, S.P.B. Hancke

CASE / FILE NUMBER

1287/2005

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IN THE HIGH COURT OF SOUTH AFRICA

(ORANGE FREE STATE PROVINCIAL DIVISION)

Review No. : 1287/2005

In the review between:-

THE STATE

versus

KEBO STEPHEN MOLEFI

CORAM: HANCKE J et WRIGHT J

JUDGMENT

BY: WRIGHT J

DELIVERED ON: 3 NOVEMBER 2005

The accused, an eighteen-year old first offender, was found guilty of house breaking with intent to steal and theft and sentenced to 18 (eighteen) months imprisonment.

There is no problem with the conviction but reasons were requested with regard to the sentence. The magistrate replied that the complainant in the matter was a target of other house breaking incidents and referred to a case in which three youths who were also charged and sentenced for house breaking were found guilty with regard to the same premises. These youths were respectively seventeen, eighteen and nineteen years old but they were only sentenced to 6 (six) months imprisonment each which is much less than the sentence in the present case.

In view of the fact that the complainant has now been serving a part of his sentence, it will probably serve no purpose to obtain a pre-sentencing report. Nevertheless, the youth of the accused and the fact that he was a first offender are very strong mitigating factors. The amount stolen was only approximately R600,00 but there was also damage occasioned when the window was broken. The fact that the youth has pending charges should not affect the severity of this sentence.

In view of all the circumstances, the sentence is sufficiently inappropriate to necessitate alteration thereof.

Accordingly the conviction is confirmed but the sentence is set aside and replaced with the following:

Nine

(9) months imprisonment.

The sentence must be deemed to have been imposed on 15 September 2005.

G.F. WRIGHT, J

I agree.

S.P.B. HANCKE, J

/sp

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