

SOUTH AFRICA / JUDGMENT

## S V Montshioa (A510/2016) [2016] ZAGPPHC 640 (29 July 2016)

[2016] ZAGPPHC 640

COURT

North Gauteng High Court, Pretoria

BEFORE

HJ De Vos, Van der Westhuizen

CASE / FILE NUMBER

A510/2016

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IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA

HIGH COURT REFERENCE NO.: 202/2016

MAGISTRATE'S SERIAL NO.: RW03/2016

CASE NO.: RC19/2015

DATE: 29 JULY 2016

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

REVISED

In the matter between:

THE STATE

and

ANDRIES MONTSHIOA

R E V I E W J U D G E M E N T

DE VOS J:

[1]The accused was convicted in the Regional Court, sitting at Christiana. on a charge of robbery with aggravating circumstances. In terms of section 276( 1)(i) of Act 51 of 1977

the accused was sentenced to eight (8) years imprisonment.

[2] After sentencing the accused, the Presiding Magistrate referred this matter for a special review of the sentence imposed.

[3] The Magistrate requests that the sentence imposed be set aside as the maximum sentence that can be imposed in terms of section 276(1)(i) is five (5) years imprisonment. The imposed sentence was consequently not in accordance with justice. The Deputy Director of Public Prosecutions supports the view of the Magistrate.

[4] I have considered the Magistrate's request and agree that the sentence imposed cannot stand and should be set aside.

I THEREFORE MAKE THE FOLLOWING ORDER:

1. The sentence of eight (8) years imprisonment imposed in terms of section 276(1)(i) of Act 51 of 1977 is set aside in terms of section 304(2)(c)(ii) of the same Act.
2. The matter is referred back to the Presiding Magistrate in terms of Section 304(2)(c)(v) of Act 51 of 1977 for imposition of sentence afresh.

HJ DE VOS

JUDGE OF THE GAUTENG DIVISION

OF THE HIGH COURT OF SOUTH AFRICA

VAN DER WESTHUIZEN

ACTING JUDGE OF THE GAUTENG DIVISION

OF THE HIGH COURT OF SOUTH AFRICA

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