

SOUTH AFRICA / JUDGMENT

## S v Moreki (77/2013) [2013] ZAFSHC 56 (1 April 2013)

[2013] ZAFSHC 56

COURT

Free State High Court, Bloemfontein

BEFORE

P.U. Fischer, F. Jordaan

CASE / FILE NUMBER

77/2013

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FREE STATE HIGH COURT, BLOEMFONTEIN

REPUBLIC OF SOUTH AFRICA

Case No.: 77/2013

In the matter between:

THE STATE

and

MOLEBOGENG MOREKI

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CORAM: JORDAAN, J et FISCHER, AJ

### JUDGMENT:

FISCHER, AJ

#### REVIEW ORDER

- [1] Molebogeng Moreki was on 31 January 2013 charged with the crime of malicious injury to property, it being alleged that on or about 9 August 2012 and at or near Moshoeshoe, in the magisterial district of Bloemfontein, he unlawfully and intentionally damaged a window valued at approximately R200.00, being the property of alternatively in lawful possession of one Nomonde Patricia Moreki.

- [2] The accused was legally represented, tendered a plea of guilty to the charge of malicious injury to property, was subsequently found guilty as charged in terms of section 112(1)(a) of Act 51 of 1977 and find R2 500,00 (two thousand five hundred rand), alternatively three months imprisonment, wholly suspended for 5 years subject to certain conditions.
- [3] The matter has now been referred as a special review in terms of section 304(4) of the Criminal Procedure Act, 51 of 1977 as the presiding magistrate conceded that the fine imposed was in excess of the limit of R1 500,00 (one thousand five hundred rand) provided for in terms of section 112(1)(a) of Act 51 of 1977.
- [4] The presiding officer is quite correct in making the concession in that the amount determined by the Minister in the Government Gazette was at all material times limited to R1 500,00 (one thousand five hundred) in terms of Government Notice R289, Government Gazette 2393 of 14 February 2003.
- [5] The Minister of Justice and Constitutional Development has subsequently and with effect from 1 February 2013 and, pursuant to the publication of Government Notice R62, dated 30 January 2013 increased such amount to R5 000,00 (five thousand rand) with effect from 1 February 2013.
- [6] In the circumstances and as requested by the presiding officer the following order is made:
- 6.1. The conviction is confirmed;
- 6.2. The sentence is set aside and the record is remitted back to the Magistrate for the imposition of an appropriate sentence in accordance with the legislation imposed by the Minister in terms of Government Notice R289, Government Gazette 2393 of 14 February 2003.

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P.U. FISCHER, AJ

I concur.

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F. JORDAAN, J

/eb

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