

SOUTH AFRICA / JUDGMENT

S v Sethoka (414/2010) [2010]

ZAFSHC 128 (26 August 2010)

[2010] ZAFSHC 128

COURT

Free State High Court, Bloemfontein

BEFORE

Cillié, Jordaan

CASE / FILE NUMBER

414/2010

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

FREE STATE HIGH COURT, BLOEMFONTEIN

REPUBLIC OF SOUTH AFRICA

Review No. : 414/2010

In the review between:-

THE STATE

versus

DIMAKATSO ALETTA SETHOKA

CORAM: CILLIÉ, J et JORDAAN, J

JUDGMENT

BY: CILLIÉ, J

DELIVERED ON: 26 AUGUST 2010

JUDGMENT

- [1] The accused in this matter was convicted of contravening section 5(b) of Act 140 of 1992 to wit dealing in 78 kg of dagga. The conviction is in order. The magistrate imposed the following sentence:

“Fined Seven Thousand Rand (R7000,00) or Six (6) years imprisonment. Half of the sentence wholly suspended for four (4) years on condition that the accused is not convicted of contravention of Section 5(b) Act 140/1992 committed during the period of suspension.”

- [2] This, however, is an incompetent sentence for dealing in dagga. Section 17(e) read with 13(f) of Act 140 of 1992 prescribes that imprisonment must be imposed. This is usually done in cases of a first offender when a fine is imposed with alternative imprisonment plus the said peremptory period of imprisonment, which is suspended. See *S v MQIKELA* 2005 (2) SACR 397 (E); *S v MOSOLOTSANE* 1993 (1) SACR 502 (O); *S v MOHOME* 1993 (1) SACR 504 (T).
- [3] The day after imposition of sentence the magistrate realised his oversight. He submitted the matter for review requesting the sentence to be set aside and the matter remitted to him to impose a competent sentence. This is in fact what should be done in this case.

For that reason the following order is made:

The sentence is set aside and the matter is remitted to the magistrate to impose sentence afresh.

C.B. CILLIÉ, J

I agree.

A.F. JORDAAN, J

/sp

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAFSHC/2010/128.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/s-v-sethoka-unknown-topic-afshc-2010>

Prepared on 10 October 2026 · Esheria