

A209/14

**IN THE NORTH GAUTENG HIGH COURT, PRETORIA  
(REPUBLIC OF SOUTH AFRICA)**

27  
18 March 2014

LANDDROSKANTOOR  
MAGISTRATE'S OFFICE  
MIDDELBURG (MP)

**THE STATE VERSUS NAMEWE CHOEU RAYMOND MATULODI**

Review case number : MR 5/14/CP  
High Court Reference number : 18/14  
Magistrate's serial number : LD54/13  
Case number : 08/13

**JUDGMENT**

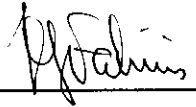
**Fabricius J,**

1. The accused herein was found guilty of driving under the influence of liquor. The concentration of alcohol in his blood was 0.23 gram per 100ml. He had a previous conviction some 3 years before and was given a suspended sentence of R4 000 or 12 months imprisonment. The sentence was suspended for 5 years. The presiding Magistrate viewed the conviction, after a plea of guilty, in a serious light and sentenced the accused to imprisonment for 3 years, and also

suspended his driving licence for 2 years.

2. On review I asked the Magistrate whether the sentence was not disproportionate to the offence. The accused had not been involved in any accident, no-one had been injured, there was no evidence of any excessive speed nor of any other traffic rule violation. He also required his licence to earn a living by conveying small volumes of oil which he collected. In this manner he earned R3 500 per month and supported 7 children.
3. The presiding Magistrate was of the view that sentence was probably unduly harsh, but added that he had kept in mind the lawlessness on the country's roads during the Christmas holidays. In this case the offence was committed in September and the accused was sentenced on 21 November 2013. In my view the general lawlessness on the roads is not only visible during December. It is a daily occurrence in the face of lack of visible policing and enforcement of traffic laws and regulations. If there is no respect for the law throughout any given year, why would one expect such respect during December?
4. The office of the Director of Public Prosecutions was asked to comment. It agreed that the sentence was disturbingly inappropriate, as I had suggested.
5. In the premises the sentence imposed is set aside in its totality, and substituted with the following:

A fine of R6 000 or 24 months imprisonment is imposed, of which R3 000 or 12 months is suspended for a period of 5 years on condition that the accused is not convicted of contravening **sections 65 (2) (a) read with sections 1, 65 (3), 65 (4), 65 (8), 65 (9), 69 (1), 73 and 89 of the National Road Traffic Act 93 of 1996**, contravened during the period of suspension.



H. J. FABRICIUS  
JUDGE OF THE HIGH COURT

I agree



D. S. FOURIE  
JUDGE OF THE HIGH COURT