



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

A510/16
01/8/16.

HIGH COURT REFERENCE NO.: 202/2016
MAGISTRATE'S SERIAL NO.: RW03/2016
CASE NO.: RC19/2015

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES / NO
(3)	REVISED: YES / NO
<u>24/7/2016</u>	
DATE	<u>[Signature]</u> SIGNATURE

In the matter between:

THE SATE

and

ANDRIES MONTSHIOA

REVIEW JUDGEMENT

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.



H J DE VOS J

JUDGE OF THE GAUTENG DIVISION
OF THE HIGH COURT OF SOUTH AFRICA



VAN DER WESTHUIZEN AJ

ACTING JUDGE OF THE GAUTENG DIVISION
OF THE HIGH COURT OF SOUTH AFRICA