

IN THE HIGH COURT OF SOUTH AFRICA
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

CASE NO:

A420/2007

DATE:

1 FEBRUARY 2008

5 In the matter between:

TWICE SIBEKO

Appellant

and

THE STATE

Respondent

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J U D G M E N T

MOTALA, J.:

15 [1] The appellant was charged in the Magistrate's Court with
housebreaking with intent to steal and the theft of two
bicycles valued at R2 000. He pleaded guilty and was
found guilty.

20 The offence was committed on 19 September 2006. On
13 March 2007 he was sentenced to three years'
imprisonment. He appeals against the sentence only.

25 [2] At the time the appellant was sentenced he was serving a
sentence of three years' imprisonment for housebreaking

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which was imposed on 30 October 2006, that is about six weeks after he committed the present offence. It is, accordingly, unclear whether or not the sentence imposed on him on 30 October 2006 has had a deterrent effect on the appellant.

[3] Appellant's counsel has submitted that the magistrate misdirected himself in not taking into account the cumulative effect of the sentences.

In his reasons for sentence the magistrate states that he did so and accordingly, I do not think he has misdirected himself in that or any other respect.

15 However, there is a substantial disparity between the effective sentence I would have imposed and the effective sentence imposed by the magistrate. In my view, although a sentence of three years' imprisonment was, in the light of the appellant's record an appropriate sentence, one half of that sentence should run concurrently with the sentence he was already serving.

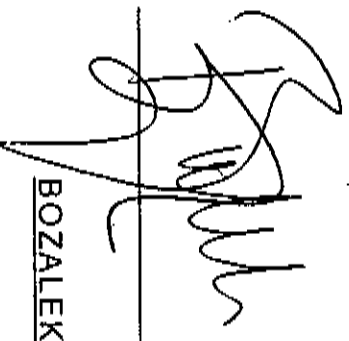
[4] I would accordingly:
(a) Uphold the appeal against the sentence.

B Set aside the sentence and substitute the following therefor:

"The accused is sentenced to three years' imprisonment, 18 months of which shall run concurrently with the sentence of three years' imprisonment imposed on 30 October 2006.

BOZALEK, J.: I agree.

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BOZALEK, J.

MOTALA, J.: It is so ordered.

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MOTALA, J.