

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

CASE NUMBER:

A399/2010

5 **DATE:**

15 OCTOBER 2010

In the matter between:

DAWID FREDERICKS

Appellant

and

10 **THE STATE**

Respondent

J U D G M E N T

DAVIS, J:

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The appellant has appealed against the sentence which was imposed upon him by the magistrate. He had been charged with the offence of dealing in cannabis to the amount of 6.6 kilograms in contravention of section 5, the Drugs & Drug Trafficking Act 140 of 1992. He pleaded guilty pursuant to a statement which was prepared in terms of section 112(2) of the Criminal Procedure Act 51 of 1977. The Court was satisfied that the appellant was guilty of being in possession of 6.6 kilograms of cannabis and accordingly convicted him.

25 Pursuant to that conviction, the appellant was sentenced to

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four years imprisonment and with the leave of the court *a quo* comes on appeal against sentence.

At the time of the sentence, appellant was 35 years old and
5 had previous convictions for theft, assault with intent to do
grievous bodily harm and for contravention of the provisions of
the Drug & Drug Trafficking Act. In this regard the following
becomes relevant: In 2005 the appellant was found in
possession of one gram, resulting in a sentence of R200,00 or
10 20 days imprisonment on 20 September 2006. Admittedly in a
case, inexplicably concluded two years later, 20 September
2008, he was convicted and sentenced to a term of 12 months
imprisonment to run concurrently with the two years sentence.
On 19 April 2008, a further sentence was imposed, in which it
15 appears the amount of dagga was 170 kilograms.

One only has to state this impressive record with regard to
drug trafficking to realise that, whatever other consideration
should have been taken into account, namely the personal
20 circumstances of the appellant in particular in the present
case, the magnitude of the offence, coupled with the previous
record and the interests of society, encapsulated in the Drugs
& Drug Trafficking Act, namely that drug dealing and drug
trafficking is a pernicious and cancerous influence upon
25 society, to realise that all these factors support no other

conclusion than the one arrived at by the magistrate. In any event, it is trite law that a court, sitting on appeal against sentence, can only intervene where there has been some serious and significant error committed by the magistrate in the evaluation of the relevant circumstances that it would induce a sense of shock in the appeal court.

To the contrary, I am not shocked in the slightest by the sentence. No reasonable person reading this record would be. For these reasons I would, therefore, dismiss the appeal and confirm both the conviction and the sentence of four years imprisonment.

DONEN, AJ: I agree.



DONEN, AJ

DAVIS, J: It is so ordered.



DAVIS, J