

FORM A

FILING SHEET FOR EASTERN CAPE JUDGMENT

ECJ no:

PARTIES

THE STATE

and

NICO POTGIETER

- Registrar: **REVIEW NO: 200501538**
- Magistrate:
- Supreme Court of Appeal/Constitutional Court

DATE HEARD:

DATE DELIVERED: **3/1/06**

JUDGE: **Plasket J**

LEGAL REPRESENTATIVES-

Appearances:

- For the State/Applicant(s)/Appellant(s)
- For the accused/ respondent(s)

Instructing attorneys:

- Applicant(s)/Appellant(s):
- Respondent(s):

CASE INFORMATION-

- Nature of proceedings: **REVIEW JUDGMENT**
- Topic:

**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION)**

**REVIEW NO: 200501538
DATE DELIVERED:3/1/06**

In the matter between:

THE STATE

and

NICO POTGIETER

REVIEW JUDGMENT

PLASKET, J

[1] The accused was convicted in the Magistrate's Court, Humansdorp of assault with intent to do grievous bodily harm. The magistrate referred the matter to the Regional Court for sentence. As the Regional Court magistrate had his doubts as to the propriety of the conviction, he referred the matter to the High Court on review.

[2] An opinion was sought by Erasmus J from the office of the Director of Public Prosecutions. Detailed and thoughtful opinions have been furnished by

Mr Obermeyer and Mr Marais SC. I express my gratitude to them. Their opinions are attached to this judgment.

[3] I agree with the views they have expressed concerning the unfairness of the accused's trial.

[4] For the reasons set out in their opinions I am of the view that the conviction must be set aside.

[5] It is accordingly ordered that the accused's conviction is set aside.

C. PLASKET

JUDGE OF THE HIGH COURT