

IN THE HIGH COURT OF THE REPUBLIC OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG.

CASE NO : A168/2012

In the matter between:

NICOLE ROMEY DE VILLIERS

APPELLANT

and

THE STATE

RESPONDENT

SUMMARY

Sentence – White collar crime – Theft of attorney’s Trust Money – Appellant in position of trust – Custodial sentence required.

Sentence – imposition of – Factors to be taken into account – Where convicted person primary caregiver of minor children – Fraud – Court’s obligations in terms of ss 28(1)(b) and 29(2) of Constitution set out – Custodial sentence in circumstances of case would not compromise interest of children – Duties of Experts witnesses and their reports.

Fraud – Sentence – White collar crime – Appellant convicted a large-scale theft of Attorneys Trust money – Money used for luxuries - Appellant in position of trust – Although appellant had minor children, lengthy custodial sentence needed to be imposed. – The *de facto* primary care giver grandmother.

The relevant material background is very brief. During the period between 30 September 2009 and 15 April 2010 the appellant was employed at Schwellnus Incorporated. Her duties included the handling of paralegal issues primarily relating to conveyancing. She was in total control of the finances. *A fortiori*, she dealt with the banks and bank guarantees. During the material time relevant hereto she received and stole an amount of approximately R1.5M. The appellant used that amount for her own purposes. The theft proven endured for a period of several months and only R800 000, 00 thereof has been repaid leaving a deficit of some R600 000,00. Part of the deficit must have been recovered from the Attorneys’ Fidelity Fund. She was arrested on 4 March 2009 and was released on bail of R5000.00 the next day. She has been out on bail since 5 March 2009 to date. Sometimes she also contributed to delays in sentencing and appeal procedures.