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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: A24/2022

DATE: 2022-08-08

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

REVISED

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27.07.23

In the matter between

BUTTON JOSHUA

and

STATE

Defendant

J U D G M E N T

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YACOOB, J: This matter comes before us on automatic appeal. The appellant appeals on sentence only.

It was submitted that the sentence lacks proportionality

because of the appellant’s circumstances. The appellant is a young man with a history of having been abused. However, we are satisfied that the Court below exercised its discretion judiciously. Against the circumstances of the appellant, including the abuse he suffered as a child and his relative youth, must be balanced the fact that he showed no remorse or even any evidence that he was perturbed for what he had done, as well as the fact that he knew he was HIV positive, and has now visited this HIV sentence on his

10 two young victims; the fact that his victims were also younger than he was, and they also had a troubled background.

When all these factors balance against his own circumstances, we are both satisfied that magistrate exercised his discretion judiciously and therefore the appeal is dismissed.

BHoola, AJ: I agree.

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YACOOb, J
JUDGE OF THE HIGH COURT
DATE:

