

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

A426/17
24/08/2017

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO OTHER JUDGES: YES/NO

(3) REVISED

22/8/2017

DATE

SIGNATURE

High Court Ref No.: 238/2017

Case No.: A 3109/2016

In the matter between:

THE STATE

and

HUZAIFAN WAAJAH

**SPECIAL REVIEW JUDGMENT IN TERMS OF SECTION 304(4) OF THE
CRIMINAL PROCEDURE ACT, 51 OF 1977**

SWANEPOEL AJ:


- [1] This case came before me on 18 August 2017, having been referred by the additional magistrate, Ms. Clement, for special review in terms of section 304 (4) of the Criminal Procedure Act, Act 51 of 1977, as amended (the Act).
- [2] On 14 March 2017 the accused was sentenced to six weeks' rehabilitation at the Dr. Fabians Florence Ribeiro Treatment Centre. In addition, in the event that the accused did not co-operate and complete the rehabilitation program, he was sentenced to a further 3 (three) months' imprisonment.
- [3] The magistrate has correctly pointed out that section 296 (1) of the Act provides for an order that a person may be detained at a treatment centre established under the Prevention and Treatment of Drug Dependency Act, 1992. In addition, the person may be sentenced to imprisonment, but only if the imprisonment is wholly suspended.
- [4] In this matter, the imprisonment component of the sentence was not wholly suspended as is required by the Act. I agree that the sentence must be reviewed and set aside.

[5] I am told that the accused has completed his rehabilitation course. In the circumstances I am of the view that the following order is appropriate:

[5.1] The sentence imposed by the court on 14 March 2017 is reviewed and set aside;


[5.2] The aforesaid sentence is substituted with a sentence of 3 (three) months' imprisonment, which is wholly suspended for a period of 5 (five) years on condition that the accused is not again convicted of theft, which offence is committed within the period of suspension.

[5.3] The period of suspension shall commence on 14 March 2017.



JJC SWANEPOEL
Acting Judge of the High Court

I agree



RG TOLMAY
Judge of the High Court