

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

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*KIMBERLEY*  
*CASE NO.: 92/2003*  
*DATE: 21-02-2002*

In the review matter between:

**THE STATE**

and

**CONSTANCE OOSTHUIZEN**

**ACCUSED**

***CORAM:*** MAJIEDT J et WILLIAMS AJ

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***REVIEW JUDGMENT***

**WILLIAMS AJ:**

This matter has come before me on special review. The accused was convicted in the Kathu Magistrate's Court of the theft of two goats and was sentenced to twelve (12) months imprisonment. In addition she was ordered to compensate the complainant for his damages in terms of section 300 of Act 51 of 1977 in the amount of R600,00 to be paid on or before 30 November 2001.

Magistrate Mkwentla who was also the presiding officer at the trial realised during an inspection of the office files that he had erroneously and contrary to the provisions of section 300 of Act 51 of 1977 fixed a date by which the amount of R600,00 had to be paid to the complainant, and thus requested that the order be corrected on review.

The magistrate is quite right in expressing the view that no date should have been fixed for such payment, the order for compensation being equal to a civil judgment in terms of section

300(3)(a) of Act 51 of 1977.

In such a case there is no legal justification for the fixing of a date and the civil rules of execution apply. (See *S v Nyathi 1978(4) SA 26 TPD*).

Accordingly the conviction and sentence are confirmed. The order for compensation is deleted and replaced by the following.

In terms of the provisions of section 300 of Act 51 of 1977, the accused is ordered to compensate the complainant, Mr Markram for damages suffered in the amount of R600,00.

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**C. C WILLIAMS**  
**ACTING JUDGE**

I concur.

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**S.A. MAJIEDT**  
**JUDGE**