

**IN THE HIGH COURT OF SOUTH AFRICA
(BOPHUTHATSWANAPROVINCIAL DIVISION)**

THE STATE

vs

AKANYANG GODFREY MOLELEKENG

REVIEW

JUDGMENT

LEEUWJ

- [1] The accused was convicted of Housebreaking with intent to Steal and Theft of goods valued at R820-00.

He was sentenced to six (6) months imprisonment without an option of a fine. The conviction is in order but the sentence is excessive because of the following:

- [2] (i) The complainant testified that she is related to the accused and that if the accused had borrowed the blankets stolen she would have lent them to him;
- (ii) The accused is a first offender, he is 22 years old and the blankets were recovered a day after they were stolen;
- (iii) He admitted to breaking into the house and taking the blankets although a plea of not guilty was entered.
- [3] This is a case where the accused ought to have been given a sentence that would deter him from committing this kind of an offence again and at the same time affording him an opportunity to rehabilitate. Sending him to jail is too harsh

under the circumstances.

[4] In interfering with the sentence, I will consider the period served by the accused in prison, that is from the date of his sentence. I ordered the immediate release of the accused on 28th June 2002.

[5] The conviction is confirmed. The sentence is set aside and the following substituted therefor:

“ Six (6) months imprisonment, of which five (5) months imprisonment is suspended for a period of three (3) years on condition accused is not convicted of Housebreaking with intent to Steal and Theft committed during the period of suspension in respect of which he is sentenced to a period of imprisonment without an option of a fine. The sentence is antedated with effect from the 6th June 2002.”

M M LEEUW
JUDGE OF THE HIGH COURT

I agree.

B E NKABINDE
JUDGE OF THE HIGH COURT
4 JULY 2002