

**IN THE HIGH COURT OF SOUTH AFRICA, BISHO**

CASE NO. CA & R 25/2001

In the matter between:

**THE STATE**

**APPLICANT**

and

**FEZEKA NGWALANGWALA**

**RESPONDENT**

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**DHLODHLO et EBRAHIM J:** The Respondent, a 22-year-old female was convicted by a Magistrate at Keiskammahoek of assault with intent to do grievous bodily harm. She stabbed a fellow learner twice in her face with a broken bottle neck because they had quarrelled at school. The complainant sustained a laceration on her cheek measuring 4x2x2 centimetres, and one on her forehead measuring 4x1x1 centimetres. She was sentenced to a fine of R2400,00 or, in default of payment of the fine, to undergo twelve months' imprisonment. The whole sentence was conditionally suspended for three years even though the Respondent had two recent previous convictions of *crimen injuria* and *crimen injuria* and assault.

The case was subject to automatic review. Our Brothers White J and Peko J were not prepared to certify that the proceedings in the case were in accordance with justice because they considered the sentence unduly lenient. The review judgment was referred to the Director of Public Prosecutions, Bisho for whatever steps he wished to take.

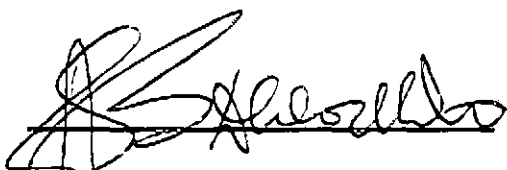
The Director of Public Prosecutions, Bisho has applied for leave to appeal against the sentence and for condonation for the late filing of the written notice of the application for leave to appeal against the sentence. The reason for the late filing of the written notice of the application for leave to appeal is that the office of the Director of Public Prosecutions, Bisho became aware of the sentence only on 07 March 2001. The sentence was imposed on 17 November 2000.

We are of the opinion that the application for the late filing of the written notice of the application for leave to appeal should be granted as well as the application for leave to appeal in terms of section 310A of the Criminal Procedure Act 51 of 1977.

We therefore make the following order:

1. The late filing of the written notice of the application for leave to appeal is condoned.
2. The application for leave to appeal against the sentence is granted.

D A T E D at BISHO on this 26th April 2001.

  
**JUDGE A E B DHLODHLO**  
**JUDGE Y EBRAHIM**