

14/3/2005

SUPREME COURT REF NO 531 /2005  
MAGISTRATE SER NO: 01/2005  
CASE NO: A 1255/2004

JUDGE'S CHAMBERS  
SUPREME COURT  
PRETORIA  
0001  
07 March 2005

### REVIEW JUDGEMENT

STATE

V

NCEBA VILI

This is a special review in terms of section 304(4) of the Criminal Procedure Act 51 of 1977

The accused was charged with and convicted of 1 count of assault in the magistrate's court at Modimolle in the district of Waterberg. The accused was sentenced to three (3) months imprisonment wholly suspended for the period of three (3) years on condition that the accused does not or is not found guilty of a similar offence within the period of suspension.

Having read the record I am satisfied that the Magistrate is correct in finding that not all of the provisions of Section 112(1)(a) and (i) had been complied with, in that an option of a fine was not imposed together with the suspended sentence.

I therefore make the following order:

- (1) The conviction is confirmed.
- (2) The sentence is set aside and replaced with the following:  
" Three (3) months imprisonment or three (3) hundred rand wholly suspended for the period of three (3) years on condition that the accused is not found guilty of assault or assault with the intention to do grievous bodily harm, committed during the period of suspension."

SIGNED AT PRETORIA ON THIS 07<sup>TH</sup> DAY OF MARCH 2005.

/  
R.D.CLAASSEN  
Judge of the High Court, TPD.

I agree.

D.A. BASS ON  
Judge of the High Court, TPD.