

A63/2006

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IN THE HIGH COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

DATE: 30/1/2006

NOT REPORTABLE

Magistrate  
MANKWENG

Case no: A247/2005  
Supreme court ref no: 3346

THE STATE v LUCAS LETSATSI MONYAMANE

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REVIEW JUDGMENT

BERTELSMANN, J

The accused was convicted of theft by the magistrate's court of Mankweng and sentenced to a fine of R5 000,00 or ten months imprisonment, and a further ten months imprisonment wholly suspended for five years on suitable conditions.

The accused is a student of law at the University of Limpopo, Polokwane.

He unlawfully entered the room of a fellow student, stole food which he ate and removed a DVD set and a TV set from their stands in the said room.

He was caught red-handed while he was still in the room.

Under the circumstances the reviewing judge opined that the unlawful act in respect of the DVD player was attempted theft only, and not theft.

The office of the Director of Public Prosecutions Transvaal, represented by Mr B J Bredenkamp SC, deputy director, and V L N Davhana agree with this approach.

It is clear that the accused at no stage gained proper control over the DVD player. Hence he can only be guilty of attempted theft.

The conviction must consequently be altered to one of guilty of housebreaking, theft of groceries and attempted theft of a DVD player.

The sentence is confirmed.

E BERTELSMANN  
JUDGE OF THE HIGH COURT

I agree

R D CLAASSEN  
JUDGE OF THE HIGH COURT