

REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO: T441/2014B

High Court ref. no. 836/2014

Magistrate case No: 16/2014

Case number: A27/2015

Date: 22 January 2015

In the matter between:

THE STATE

and

F[...] F[...]

REVIEW JUDGMENT

MAKGOKA, J:

[1] The accused pleaded guilty to, and was convicted for, illegally entering and remaining in the Republic, by the Thabazimbi Magistrate court on 27 September 2014. During sentence proceedings it transpired that he was a minor under the age of 18, after his age was determined by the doctor through medical examination. The court stopped the proceedings and sent the case on special review to this court.

[2] The proceedings should therefore be set aside, and the child accused should be dealt with in terms of the relevant provisions of the Child Justice Act 85 of 2013.

[3] In the result the following order is made:

1. The proceedings are set aside.
2. The conviction of the child accused is set aside.
3. A preliminary enquiry should be held in respect of the child accused in terms of s 5(2) read with s 43 of the Child Justice Act 75 of 2008.

T M MAKGOKA

JUDGE OF THE HIGH COURT

I agree

J M TEFFO

JUDGE OF THE HIGH COURT