

THE STATE

Versus

VUKUZENZELE STORE – MPH 13/07
SIZAKANCANE STORE – MPH 16/07
ZAMAZAMA GENERAL DEALER – MPH 15/07
PAMANI GENERAL DEALER – MAD 52/07
MABHENDI GENERAL DEALER – MAY 21/07
D M GENERAL SUPPLIERS – PT 362/07
BRUNAPEG BOTTLE STORE – MPH 14/07

IN THE HIGH COURT OF ZIMBABWE
NDOU J
BULAWAYO 20 MARCH & 15 MAY 2008

Review

NDOU J: These matters were dealt with by different Plumtree magistrates and I have conveniently dealt with them under this review minute because the query raised by the learned scrutinising Regional Magistrate is similar. These entities were all properly convicted of contraventions of the Control of Goods Act [chapter 14:05] and nothing turns on the convictions. The trial magistrates mistakenly imposed custodial sentences. This is wrong because such entities have no physical existence and therefore, cannot be thrown to goal for failing to pay fines – *S v Deal Enterprises (Pty) Ltd* 1978(3) SA 302 (W) and *Criminal Law* (2nd Ed) at page 78. The court may not impose any punishment other than a fine. There is, of course, an exception when a natural person i.e. a member, an employee or an agent is charged personally in terms of section 277(5) of the Criminal Law (Codification and Reform) Act [chapter 9:23] or section 385 of the Criminal Procedure and Evidence Act [chapter 9:07].

Accordingly, I confirm the conviction. The sentences imposed in all the matters are amended by the deletion of the alternative terms of imprisonment imposed. The proceedings are otherwise confirmed.

Cheda J I agree