

**THE STATE**

**Versus**

**JOHN NDLOVU**

IN THE HIGH COURT OF ZIMBABWE  
NDOU J  
BULAWAYO 1 APRIL 2004

Criminal Review

**NDOU J:** The matter was referred to me for review by the scrutinising Regional Magistrate. The brief facts are that the accused a juvenile aged between 16 and 17 years, was convicted by a Western Commonage Magistrate for housebreaking with intent to steal and theft. The accused is a first offender. The value of the stolen property is \$50 000,00 with \$45 000,00 recovered. He was sentence to 12 months imprisonment with 4 months suspended on the usual conditions of good behaviour. The accused person was convicted and sentenced on 30 December 2002. The record was only forwarded for scrutiny in June 2003. The scrutinising Regional Magistrate in turn submitted the record to this court in September 2003. By the time the record reached this court the juvenile had, unfortunately, served his entire prison sentence. Such delays are deplorable. In *S v Shoniwa* HB-37-03 I expressed concern in delays where the accused is in custody. Once more the need to submit records for scrutiny or review is emphasised. In *S v Gumede* HB-40-03 CHEDA J on review, castigated such delays. Where, like in this matter, juvenile offenders are in custody, the learned Judge said such conduct by trial magistrates is deplorable and has to be condemned in the strongest terms. I associate myself with these sentiments. There is no

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adequate justification for imprisonment of this juvenile offender – *S v Ponder* 1989

(1) ZLR 235 (SC).

Accordingly I withhold my certificate as I am unable to certify that the proceedings are in accordance with real and substantial justice.