

**THE STATE**

**Versus**

**JARVIS MZIZI**

IN THE HIGH COURT OF ZIMBABWE  
NDOU J  
BULAWAYO 5 JULY 2007

Criminal Review

**NDOU J:** The accused was properly convicted by a Bulawayo Magistrate of assault and nothing turns on the conviction. He was sentenced to a fine of \$4 000 or in default of payment 14 days imprisonment plus an additional prison sentence of 2 months wholly suspended for 2 years on conditions of good behaviour. The salient facts of the case are the following.

The complainant confronted the accused and asked him why he had failed to meet their roofing agreement. This did not go down well with the accused. The accused picked up a knobkerrie and struck the complainant once on the head. The blow landed on the head, which is a vulnerable part of the body. The blow caused a 3 centimetre wound on the back part of the scalp. The medical report by the doctor who examined the complainant reveals that moderate force was used. The doctor further opined that the injury was serious. In her reasons for sentence the learned trial magistrate made no reference at all to those important factors in assessment of sentence. This is one of the several cases coming on review where the trial magistrates fail to appreciate the seriousness of the assault. Once more, it has to be emphasised that the nature of the weapon used, the target of the blow, area where blow eventually lands and the resultant injury are important factors in the assessment of sentence in assault cases. Medical reports are not produced as a matter course but carry strong weight on the question of sentence.

Judgment No. HB 69/07

Case No. HC 767/07

CRB FR 48/07

value. They must be taken seriously and evidence of the doctors or medical staff be properly appreciated by the trial magistrates. In this case imprisonment was called for.

Accordingly, I am unable to certify the proceedings as being in accordance with true and substantial justice and I withhold my certificate.