

IN THE HIGH COURT OF SWAZILAND

**REVIEW CASE NO. 010/08
& 009/08**

In the matter between:

REX

VS

MVELI DLAMINI

MOSES HLOPHE

JUDGEMENT
19th FEBRUARY, 2008

MAMBA J

[1] Both accused appeared separately but incidentally before the same Judicial officer and on the same day. They were both facing the same offence, namely a contravention of section 102 (l)(a) of the Road Traffic Act No. 6 of 1965. The allegation against them was that they had allowed their livestock, cattle, to wonder around on a public road where that section of the road is fenced or enclosed on both sides.

[2] The accused were unrepresented. They both pleaded guilty to their respective charges and their pleas were accepted by the crown. They were properly convicted in my view as there was nothing in issue between them and the crown as a result of their individual pleas.

[3] The learned Magistrate sentenced each of them to a fine of E500.00 or 5 months of imprisonment. However, the maximum sentence provided for a contravention of the above cited section is a fine of E200.00 or three months of imprisonment. Clearly the sentences imposed by the Magistrate in these two cases was not in accordance with the law and cannot stand. See in this regard **Rex vs Dudu Sikhondze Review case no. 78/2007**, a judgement of this court handed down on the 28th August 2007.

[4] For the foregoing reasons the following orders are made;

1. Both convictions are confirmed.
2. Both sentences are set aside. The cases are remitted to the trial Magistrate to pass sentence de novo.

MAMBA, J

I agree.

MAPHALALA J