

Editorial note: Certain information has been redacted from this judgment in compliance with the law.

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: A24/2022

DATE: 2022-08-08

10

<p>DELETE WHICHEVER IS NOT APPLICABLE (1) REPORTABLE: YES / NO. (2) OF INTEREST TO OTHER JUDGES: YES / NO. (3) REVISED. <u>DATE</u> <u>SIGNATURE</u></p>
--

In the matter between

B J

and

STATE

Defendant

J U D G M E N T

20 **YACOOB, J:** This matter comes before us on automatic appeal. The appellant appeals on sentence only.

It was submitted that the sentence lacks proportionality because of the appellant's circumstances. The appellant is a young man with a history of having been abused. However, we are satisfied that the Court below exercised its discretion judiciously. Against the circumstances of the

appellant, including the abuse he suffered as a child and his relative youth, must be balanced the fact that he showed no remorse or even any evidence that he was perturbed for what he had done, as well as the fact that he knew he was HIV positive, and has now visited this HIV sentence on his two young victims; the fact that his victims were also younger than he was, and they also had a troubled background.

When all these factors balance against his own
10 circumstances, we are both satisfied that magistrate exercised his discretion judiciously and therefore the appeal is dismissed.

BHoola, AJ: I agree.

- - - - -

.....

YACOOB, J

JUDGE OF THE HIGH COURT

20 **DATE:**