

**IN THE HIGH COURT OF NAMIBIA**

In the matter between:

**THE STATE**

versus

**JOHANNES SWARTZ**

**(HIGH COURT REVIEW CASE NO.: 465/05)**

**CORAM: VAN NIEKERK, J et SILUNGWE, AJ**

Delivered on: 2007-03-29

**REVIEW JUDGMENT:**

**VAN NIEKERK, J:**

[1] The accused in this matter was convicted in the Windhoek magistrate's court on a count of housebreaking with intent to steal and theft. The conviction is in order.

[2] The accused was sentenced as follows:  
"3 Years imprisonment of which 18 months are suspended for 3 years on condition that accused is not convicted of the offence of 2 housebreaking with intent to steal and theft during period of suspension."

[3] It is clear that the word "committed" was omitted after the word "theft" and it should be inserted to make the condition upon which the sentence was suspended clear.

[4] In the result I make the following order:

1. The conviction is confirmed.

2. The sentence is altered to read as follows:

'3 (three) years imprisonment of which 18 (eighteen) months are suspended for 3 (three) years on condition that the accused is not convicted of the offence of housebreaking with intent to steal and theft committed during the period of suspension.'

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**VAN NIEKERK, J**

I agree

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**SILUNGWE, AJ**