

IN THE HIGH COURT OF NAMIBIA

In the matter between

THE STATE

versus

SHUUYA JOSEPHAT

[HIGH COURT REVIEW CASE NO. 355/07]

CORAM: PARKER, J. et MANYARARA, A.J.

Delivered on: 2007 June 4

REVIEW JUDGMENT:

PARKER, J:

[1] The accused person was convicted on his plea of guilty to the offence of theft of N\$312.00 in the Magistrate's Court, Oshakati, and sentenced to three years' direct imprisonment, of which one year was suspended for five years on condition that he was not convicted of theft, committed during the period of suspension,.

[2] The matter came up to this Court for automatic review. I asked the learned magistrate to give reasons – because there was none on the record – why he sentenced the accused person to three years' direct imprisonment. In his response to my query, the learned magistrate states that he had in mind an imprisonment of three years, totally suspended. The tenor of his response is that he agrees that the sentence is not in accordance with justice.

[3] I have perused the record and having done so I am of the view that the sentence induces in me a sense of shock taking into account the following factors. The amount stolen was N\$312.00, and the accused person was a first offender and he pleaded guilty to the charge. The result is that the sentence cannot stand.

[4] In the result, I make the following orders:

- (1) The conviction is confirmed.
- (2) The sentence is set aside, and the following substituted therefore:
12 months' imprisonment, of which six months are suspended for

three years on condition that the accused person is not convicted of theft, committed during the period of suspension.

PARKER, J

I agree.

MANYARARA, A.J.