

CASE NO.: CR 65/07

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

versus

NDINELAGO NANGOLO

(HIGH COURT REVIEW CASE NO.: 489/07)

CORAM: MAINGA, et VAN NIEKERK, JJ

Delivered on: 2007-04-25

REVIEW

JUDGMENT:

VAN NIEKERK, J: [1] The accused in this matter was convicted in the Oshakati magistrate's court of theft of clothes from Jet Stores. She pleaded guilty and was sentenced as follows:

"N\$500 or 12 months wholly suspended for 5 years that accused is not convicted of theft or any other offence of which theft became an elements committed during the period of suspension."

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[2] The conviction is in order but the formulation of the sentence does not make sense. Firstly, the words "on condition that" have been omitted. Secondly, it is not clear what the words "theft became an elements" mean. Theft cannot "become" an element of an offence. I think these words should simply be deleted.

[3] In the result the following order is made:

1. The conviction is confirmed.
2. The sentence is confirmed, but formulated to read as follows:
"N\$500 (five hundred Namibian dollars) or 12 (twelve) months imprisonment wholly suspended for 5 (five) years on condition that the accused is not convicted of the offence of theft committed during the period of suspension."

VAN NIEKERK, J

I agree

MAINGA, J