

CASE NO.: CR
52/08

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

and

CLAUDIUS NANUB AND ANOTHER

Accused

HIGH COURT REVIEW CASE NO. 262/08

CORAM: MAINGA J. et ANGULA, A.J.

Delivered on:2008.05.22

REVIEW JUDGMENT:

ANGULA, A.J.:

[1] This matter came before me for special review in terms of Section 304 (4) of the Criminal Procedure Act, 51 of 1977.

[2] The covering letter by the Divisional Magistrate reads as follows:

Accused 2 in this case John Uirab was undefended on 17 August 2004 on which date the case was postponed to 8 November 2004 and the accused warned to be in Court. It was noted on 8 November 2004 (should read August) that accused 2 was absent and a warrant for his arrest was issued. On 10 January 2005 accused 2 was present and in the end convicted in terms of section 72 (4) of the Criminal Proceedings Act of 1977, although this

was not indicated as such on record. This is of course "**Failure to appear in court on warning**".

[3] I have perused and considered the record and I am in full agreement with the Divisional Magistrate's view. As a result the record of the proceedings of 10 January 2005 is amended as follows:

[4] The sentence which reads: "Guilty of contempt of court:" (sic) is deleted and is substituted in its place with the following: "Guilty for failure to appear in court on warning."

[5] Furthermore the fine part of the sentence imposed, i.e. N\$200-00, is set aside and is substituted in its place with a fine of N\$100-00.

ANGULA, A.J.

I concur.

MAINGA, J.