



REPUBLIC OF NAMIBIA

CASE NO.: CR 54/2010

IN THE HIGH COURT OF NAMIBIA

In the matter between:

STATE

versus

WAKUNUMA WAKUNUMA

(HIGH COURT REVIEW CASE NO.: 1467/10)

CORAM: VAN NIEKERK, J et NDAUENDAPO, J

Delivered on: 28 September 2010

REVIEW JUDGMENT

VAN NIEKERK, J [1] The accused was convicted in the magistrate's court at Katima Mulilo on a charge of contravening section 14(1)(a) of the Custom and Excise Act, 20 of 1998, in that he failed to declare goods in his possession

which he brought into Namibia. However, there is a problem with the formulation of the suspended sentence imposed, in that the magistrate made it a condition of suspension that the accused should not be convicted of a contravention of "S.(4)(5) of Act 20 of 1998", which does not make sense. The relevant statutory provision is section 14(1)(a) of Act 20 of 1998. Furthermore, she described the offence as being one of not declaring "property", whereas section 14(1)(a) uses the word "goods".

[2] The result is that the following order is made:

1. The conviction is confirmed.
2. The sentence imposed is substituted with the following sentence:
"N\$1000 (One Thousand Namibia Dollars) or 1(one) year imprisonment of which N\$500 (Five Hundred Namibia Dollars) or 6 (six) months is suspended for 4 (four) years on condition that the accused is not found guilty of not declaring goods in contravention of section 14(1)(a) of the Customs and Excise Act, 20 of 1998, committed during the period of suspension".

VAN NIEKERK, J

I concur.

NDAUENDAPO, J