

REPUBLIC OF NAMIBIA

CASE NO. CA 09/2010

IN THE HIGH COURT OF NAMIBIA

In the matter between:

NICOLAUS KAYOKA

First Appellant

JOSEPH KAMANA

Second

Appellant

VINCENT KAMUTJONGA KASOMA

Third Appellant

DETLEF MBAMBO KUPEPA

Fourth Appellant

versus

THE STATE

Respondent

CORAM: VAN NIEKERK, J et HINDA, AJ

Heard: 28 June 2010

Delivered: 29 October 2010

JUDGMENT

VAN NIEKERK, J et HINDA, AJ:^[1] After having heard argument by Mr *Wessels* for the appellants and Mr *Konga* for the respondent, we reserved judgment. We have come to the conclusion that the appeal must succeed. The reasons for this

decision will be provided in due course. In order not to detain the appellants any longer in custody, we have decided to make the following order in the meantime:

The appeal by all four appellants succeeds. Their convictions and sentences are set aside.

VAN NIEKERK, J

HINDA, AJ

Appearance for the parties:

For appellants:

Mr J Wessels

Stern & Barnard

For respondent:

Mr Konga

Office of the Prosecutor-General