



CASE NO.: CR 77/2011

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

and

RAYNOLD SMEER

(HIGH COURT REVIEW CASE NO.: 1457/2010)

(MAGISTRATE'S SERIAL NO.: 22/2010)

CORAM: PARKER, J *et* SHIVUTE, J

Delivered on: 2011 August 23

REVIEW JUDGMENT

SHIVUTE, J: [1] The accused appeared in Okahandja Magistrate's Court on a charge of assault with intent to do grievous bodily harm and he

was convicted as charged. The conviction is in order. However, there is a problem with the formulating of the sentence.

[2] The sentence was phrased in the following terms:

"18 Months imprisonment of which 6 months suspended for a period of 5 years on condition accused is not convicted of assault grievous bodily harm during period of suspension."

[3] The conditions of suspension of sentence are not very clear therefore, the accused is not in a position to understand and know how to behave himself in compliance thereof.

[4] The conditions of suspension should read that the accused is not convicted of assault with intent to do grievous bodily harm committed during the period of suspension. Please note that there is no offence of assault grievous bodily harm.

[5] Having said that, the following order is made:

(1) The conviction is in order.

(2) The sentence is altered to read:

Eighteen (18) months' imprisonment of which six (6) months are suspended for a period of five (5) years on condition that the accused is not convicted of assault with intent to do grievous bodily harm committed during the period of suspension.

SHIVUTE, J

I agree

PARKER, J