



NOT REPORTABLE

CASE NO.: CA 40/2011

IN THE HIGH COURT OF NAMIBIA

In the matter between:

**JAN SWARTBOOI
APPELLANT**

and

**STATE
RESPONDENT**

CORAM: HOFF J et SIBOLEKA, J

Heard on: 28 October 2011

Delivered on: 28 October 2011 *(Ex tempore)*

JUDGMENT

HOFF J: [1] So the appellant was convicted on a charge of stock theft and sentenced on the 10 November 2008.

[2] A notice of appeal against the sentence was filed on the 9 September 2011 as is evident from the date stamp of the clerk of the Court employed by the Ministry of Justice.

[3] The rules of the Magistrate's Court Act provides that appellant must file such notice of appeal within the period of 14 days after he or she has been sentenced.

[4] Where an accused person fails to file the notice of appeal within the prescribed period an application for condonation of late filing of such notice must be launched by such an accused person. In such condonation application which must be on affidavit, the accused must explain the reason or the reasons for the late filing of such notice of appeal and must also deal with the merits of the case on appeal.

[5] Whereas in this case where there is in this case no such condonation application the Court is in no position to consider the appeal.

[6] In the result this appeal is accordingly struck from the role.

HOFF J

I agree

SIBOLEKA, J

ON BEHALF OF THE APPELLANT:

In

Person

Instructed by :

COUNSEL ON BEHALF OF THE RESPONDENT:

Adv.

Nyoni

Instructed by:

Office of the Prosecutor

General