



CASE NO.: CC04 /2010

IN THE NORTHERN LOCAL DIVISION

HIGH COURT OF NAMIBIA

HELD AT OSHAKATI

In the matter between:

THE STATE

versus

ANDREAS HASHIYANA

HASHIYANA

ACCUSED

CORAM: TOMMASI J

Heard on: 23 May 2012

Delivered on: 23 May 2012

**RULING: APPLICATION FOR POSTPONEMENT AND THE TRANSFER
OF THE MATTER TO THE MAIN DIVISION OF THE HIGH COURT OF
NAMIBIA**

[1] This matter has been pending in this Court since 21 January 2010. The accused has since February 2011 requested the Court for indulgence in order for him to be afforded the opportunity to be examined by a psychiatrist. The Court granted the accused more than ample time to do so. The Court warned Mr Shakumu, counsel for the accused, during November 2011 that no further delays herein would be tolerated and the matter was set down for trial to commence on 16 June 2012.

[2] Mr Shakumu, shortly before the commencement of the trial, brought an application for the postponement of the matter on 23 May 2012 and for it to be transferred to Windhoek (I assume he meant to the Main Division of the High Court). Mr Shakumu's reason for such an application was that it would be necessary and essential for the defense of the accused that he be examined by a psychiatrist in Windhoek and therefore that this matter should be transferred to Windhoek. He also averred that this was the instructions of the Directorate Legal Aid. I agree with the State's submission that it is not necessary for the matter to be transferred to Windhoek in order for the accused to be examined by a psychiatrist in Windhoek. If the accused requires a court order in order to be examined by a psychiatrist, whether State or private, he may approach this Court with such a request/application as this Court has concurrent jurisdiction with the main division. There is thus no need, on this ground, for a postponement to be

granted. In view of this, this Court need not consider whether the Court has jurisdiction to do so.

[3] Under the circumstances the application for postponement on the ground that the matter be referred to the main division, is dismissed. Consequently the application that the matter be transferred to the Main Division of the High Court of Namibia is also dismissed.

Tommasi J

COUNSEL ON BEHALF OF THE STATE:

Mr Lisulu

Instructed by:

Office of the

Prosecutor General

COUNSEL ON BEHALF OF THE ACCUSED:

Mr Shakumu

Instructed by:

Directorate Legal Aid