

REPUBLIC OF NAMIBIA

HIGH COURT OF NAMIBIA



MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: CR 48/2013

In the matter between:

THE STATE

and

NELSON KANDJOU

ACCUSED

(HIGH COURT MAIN DIVISION REVIEW REF NO.: 1787/2012)

Neutral citation: *The State v Kandjou* (CR 48/2013) [2013] NAHCMD 221 (29 July 2013)

Coram: MILLER AJ et DAMASEB JUDGE-PRESIDENT

Delivered on: 29 July 2013

ORDER

In the result the sentence imposed by the magistrate is set aside and substituted by the following sentence:

‘Fined N\$1000.00 or 3 months imprisonment which is wholly suspended for a period of 5 years on condition that the accused is not convicted of Malicious damage to property committed during the period of suspension.’

JUDGMENT

MILLER AJ :[1] In this matter the accused was correctly convicted on a charge of Malicious damage to property.

[2] The learned Magistrate thereupon sentenced the accused to “a fine of N\$1,000.00 or 3 months imprisonment.”

[3] The entire sentence was suspended on condition that the accused is not convicted of the offence of theft committed during the period of suspension.

[4] The learned Magistrate blames the fact that the word “theft” is used as an oversight on his part and states that he intended to suspend the sentence on condition that the accused is not convicted of Malicious damage to property committed during the period of suspension.

[5] In the result the sentence imposed by the Magistrate is set aside and substituted by the following sentence:

‘Fined N\$1000.00 or 3 months imprisonment which is wholly suspended for a period of 5 years on condition that the accused is not convicted of Malicious damage to property committed during the period of suspension.’

P J MILLER
Judge

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I agree

P J DAMASEB
Judge-President