



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

Case No: CR 27/2016

THE STATE

Versus

GERSON KHAMUXAB

**(HIGH COURT MAIN DIVISION REVIEW REF NO. 613/2015)
(MAGISTRATE'S REVIEW NO.: 12/2015)**

Neutral citation: *S v Khamuxab* (CR 27/2016) [2016] NAHCMD 100 (8 April 2016)

Coram: SHIVUTE, J *et* PARKER, AJ

Delivered: 8 April 2016

ORDER

(a) The conviction is confirmed.

(b) The sentence imposed is altered to read:

Ten months' imprisonment.

(c) The sentence is antedated to 18 March 2015.

REVIEW JUDGMENT

SHIVUTE J (PARKER, AJ concurring):

[1] The accused person was properly convicted of theft, read with the provisions of the Stock Theft Act 12 of 1990 (as amended) after he pleaded guilty to the charge.

[2] He was sentenced to N\$2000 (two thousand) fine and in default of payment to ten months' imprisonment.

[3] I queried the magistrate as to under which provisions of the law did the court derive its authority to impose a fine. The learned magistrate rightly conceded that she erred by imposing a fine and requested the reviewing judge to alter the sentence.

[4] The fine imposed by the learned magistrate is not allowed by the Act in respect of stock theft. Based on this reason the sentence cannot be allowed to stand.

[5] Consequently, it is ordered:

(a) The conviction is confirmed.

(b) The sentence imposed is altered to read:

Ten months imprisonment.

(c) The sentence is antedated to 18 March 2015.

N N Shivute
Judge

C Parker
Acting Judge