



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

REVIEW JUDGMENT

Case no: CR 10/2016

In the matter between:

THE STATE

And

SEUN GASEB ACCUSED

(HIGH COURT MAIN DIVISION REVIEW REF NO. 104/2016)

Neutral citation: State v Gaseb (CR 10/2016) [2016] NAHCMD 60 (8 March 2016)

Coram: SIBOLEKA J and USIKU J

Delivered: 8 March 2016

Flynote: Criminal Procedure – Sentence – Suspended sentence- Conditions of – Correct wording of condition of suspension- The word “committed” should be part of condition – A condition should be clear and must relate to the crime accused is convicted of.

Summary: The accused was convicted by the Usakos Magistrate Court on a charge of attempted housebreaking with intent to steal and theft and sentenced accordingly.

ORDER

Twelve (12) months imprisonment of which six (6) months are suspended for a period of five (5) years on condition the accused is not convicted on a charge of housebreaking or attempted housebreaking with intent to steal and theft committed during the period of suspension

REVIEW JUDGMENT

USIKU J, (SIBOLEKA J CONCURRING)

[1] The proceedings are in accordance with justice, but the formulation of the suspended part of the sentence is not clear as conceded to by the learned magistrate. Particularly the crucial word “committed” was left out in the formulation of the sentence.

[2] In the result, the conviction is confirmed and the sentence is set aside. The formulation of the sentence is altered accordingly so as to insert the word “committed” therein as follows:

Twelve (12) months imprisonment of which (6) months are suspended for a period of 5 five years on condition the accused is not convicted on a charge of housebreaking or attempted housebreaking with intent to steal and theft committed during the period of suspension.

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DN USIKU
Judge

A SIBOLEKA
Judge