



NOT REPORTABLE

HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

REVIEW JUDGMENT

CR No: 7/2017

THE STATE

versus

ALFRED GAGOSEB

FIRST ACCUSED

ALFRED ALFRED

SECOND ACCUSED

(HIGH COURT MAIN DIVISION REVIEW REF NO. 1540/2016)

(MAGISTRATE'S SERIAL NO. 81/2016)

Neutral citation: *S v Gaogoseb* (CR 7/2017) [2017] NAHCMD 12 (23 January 2017)

Coram: LIEBENBERG J and SHIVUTE J

Delivered: 23 January 2017

ORDER

- a) The conviction is confirmed.
- b) The sentence is set aside and replaced with the following:

'12 MONTHS IMPRISONMENT EACH'

REVIEW JUDGMENT

SHIVUTE J (LIEBENBERG J concurring):

[1] The accused persons were convicted of hunting huntable game in contravention of s 30 (1) (a) of the Nature Conservation Ordinance 4 of 1975. The accused were sentenced to 12 months imprisonment.

[2] I directed the following query:

'2. What did the magistrate have in mind by imposing the above-mentioned sentence? Does it mean that the two accused persons have to share the sentence and serve 6 months imprisonment each or does it mean each of them should serve 12 months imprisonment?'

[3] The learned magistrate replied:

'1. Kindly take note that it was an oversight on my part for which I wish to apologize as I omitted the word "each".

2. The sentence must thus read: **12 MONTHS IMPRISONMENT EACH.**'

[4] The conviction is in order. However, the formulation of the sentence is unclear. The matter involved two accused persons and the formulation of the sentence did not indicate as being applicable to both accused persons separately or jointly, which cannot be an appropriate sentence.

[5] In the premise, the following order is made:

- a) The conviction is confirmed.
- b) The sentence is set aside and replaced with the following:

'12 MONTHS IMPRISONMENT EACH'

N N Shivute

Judge

JC Liebenberg

Judge