



**HIGH COURT OF NAMIBIA, MAIN DIVISION
JUDGMENT**

CR No: 35/2017

In the matter between:

THE STATE

And

CARLOS FREY

HIGH COURT MD REVIEW CASE NO 644/2017

Neutral citation: *S v Frey* (CR 35/2017) [2017] NAHCMD 149 (24 May 2017)

CORAM: LIEBENBERG J et SHIVUTE J

DELIVERED: 24 May 2017

ORDER

1. The conviction is confirmed.
2. The sentence is confirmed but amended to read: N\$3 000 or 10 months' imprisonment of which N\$2 000 or 7 months' imprisonment is suspended for a period of 5 years on condition that the accused is not convicted of theft, committed during the period of suspension.

JUDGMENT

LIEBENBERG J: (Concurring SHIVUTE J)

[1] The accused was convicted on his plea of guilty of the offence of theft and sentenced to a fine, partly suspended on the usual conditions. The conviction is in order and will be confirmed.

[2] In a query directed to the presiding magistrate it was pointed out that the formulation of the suspended sentence was improper in that it did not read that the accused should not be convicted of the prohibited offence *committed* during the period of suspension. In her reply the magistrate conceded the oversight and proposed that the sentence be corrected accordingly.

[3] In the result, it is ordered:

1. The conviction is confirmed.
2. The sentence is confirmed but amended to read: N\$3 000 or 10 months' imprisonment of which N\$2 000 or 7 months' imprisonment is suspended for a

period of 5 years on condition that the accused is not convicted of theft, committed during the period of suspension.

J C LIEBENBERG

JUDGE

N N SHIVUTE

JUDGE