**REPUBLIC OF NAMIBIA** NOT REPORTABLE



**HIGH COURT OF NAMIBIA, MAIN DIVISION**

**JUDGMENT**

**CASE NO: CR No: 15/2017**

In the matter between:

**THE STATE**

and

**MATTHEUS MAZINIMA ACCUSED NO 1**

**ALFRED GOAGOSEB ACCUSED NO 2**

**HIGH COURT MD REVIEW CASE NO 1651/2016**

Neutral citation*:* *S v Mazinima* (CR 15-2017) [2017] NAHCMD 40 (17 February 2017)

**CORAM: LIEBENBERG J *et* SHIVUTE J**

**DELIVERED: 17 February 2017**

**ORDER**

1. The convictions on counts 1 and 2 are confirmed.
2. The sentence on count 1 is confirmed but amended to read: 12 months’ imprisonment of which 6 months is suspended for a period of 5 years on condition that the accused is not convicted of the offence of hunting huntable game in contravention of s 30(1)*(b)* of Ordinance 4 of 1975, committed during the period of suspension.

**JUDGMENT**

LIEBENBERG J: (Concurring SHIVUTE J)

[1] The accused were charged with offences committed under the Nature Conservation Ordinance 4 of 1975 and convicted after pleading guilty.[[1]](#footnote-1) The convictions are in order and will be confirmed on review.

[2] Whilst accused no 2 was given a fine, accused no 1 was sentenced to 12 months’ imprisonment, partly suspended on condition of good conduct. The sentence of accused no 2 is not reviewable but that of accused no 1 is. When the matter came on review I directed a query to the presiding magistrate enquiring whether the sentence imposed on count 1 was proper without stating that the accused should not be convicted of committing the same offence *committed* during the period of suspension. The magistrate in response concedes the omission and prays for the sentence to be corrected.

[3] In the result it is ordered:

1. The convictions on counts 1 and 2 are confirmed.
2. The sentence on count 1 is confirmed but amended to read: 12 months’ imprisonment of which 6 months is suspended for a period of 5 years on condition that the accused is not convicted of the offence of hunting huntable game in contravention of s 30(1)*(b)* of Ordinance 4 of 1975, committed during the period of suspension.

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**J C LIEBENBERG**

**JUDGE**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**N N SHIVUTE**

**JUDGE**

1. Accused no 1 in contravention of s 30(1)*(a)* – Hunting huntable game;

 Accused no 2 in contravention of s 50(1) – Removal of game found dead. [↑](#footnote-ref-1)