

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 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.

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.

[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.

J C LIEBENBERG

JUDGE

N N SHIVUTE

JUDGE

