

Case Title: <i>The State v Alex Awiseb</i>	Case No: CR 43 /2019
High Court MD Review No: 14/2019	Division of Court: Main Division
Heard before: Mr Justice Liebenberg <i>et</i> Lady Justice Shivute	Delivered on: 10 June 2019
Neutral citation: <i>S v Awiseb</i> (CR 43 /2019) [2019] NAHCMD 181 (10 June 2019)	
The order: <ol style="list-style-type: none"> a) The conviction is confirmed. b) The sentence is confirmed but amended to read as follows: '24 months' imprisonment of which 18 months' imprisonment is suspended for a period of three (3) years on condition that the accused is not convicted of the offence of stock theft, committed during the period of suspension. 	
Reasons for order:	
LIEBENBERG J (concurring SHIVUTE J) <ol style="list-style-type: none"> 1. This is a review in terms of s 302 (1) of the Criminal Procedure Act (the CPA) as amended. 2. The accused appeared in the Magistrate's Court in the district of Outjo on one count of stock theft. After evidence was led he was found guilty as charged. The conviction is in order and will be confirmed. 3. The only issue lies with the manner in which the sentence is formulated. The accused was sentenced to 24 months' imprisonment of which 18 months' is suspended for a period of three (3) years on condition accused is not convicted of the offence of stock theft. 	

4. The trial magistrate omitted to insert the phrase 'committed during the period of suspension' as part of the sentence. The magistrate rightly conceded that the sentence was therefore not proper. This condition is important as it reflects to the accused not to be convicted of the prohibited offence during the period of suspension.
5. In the result, it is ordered that:
- a) The conviction is confirmed.
 - b) The sentence is confirmed but amended to read as follows:
'24 months' imprisonment of which 18 months' imprisonment is suspended for a period of three (3) years on condition that the accused is not convicted of the offence of stock theft, committed during the period of suspension.

J C LIEBENBERG
JUDGE

N N SHIVUTE
JUDGE