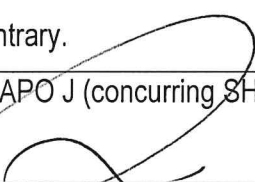
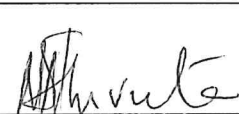


“ANNEXURE 11”

IN THE HIGH COURT OF NAMIBIA

Case Title: The State // Rimando Kortman and Clementine Witbeen	Case No: CR 16 /2019
	Division of Court: High Court
Heard before: Honourable Mr Justice Ndauendapo et Honourable Mr Justice Shivute	Delivered on: 25 February 2019
Neutral citation: <i>The State v Kortman and another</i> (CR 16 /2019) [2019] NAHCMD 39 (25 February 2019)	
The order: 1. The conviction of possession of cannabis weighing 480gram is not in order. 2. It is set aside and substituted with the following: Accused 1 is convicted of dealing in cannabis weighing 480 grams. 3. The matter is remitted back to the magistrate who presided over the matter, in the absence of the said magistrate, any other magistrate, to sentence the accused afresh. 4. Any fine or imprisonment term that the accused may have paid or served, must be taken into account when sentencing the accused afresh.	
Reasons for order: 1. Accused 1 was convicted of possession of cannabis weighing 480 grams. In terms of s 10(1)(a)(i) of Act 4 of 1971 an accused who is found in possession of cannabis weighing more than 150 gram is presumed to have dealt with cannabis unless the contrary is proved. The cannabis found in possession of accused 1 weighed more than 150 grams (it weighed 480 grams) and the accused should have been convicted of dealing and not possession as no evidence was led to prove the contrary.	
NDAUENDAPO J (concurring SHIVUTE J)	
 G.N. NDAUENDAPO JUDGE	 N.N. SHIVUTE JUDGE