

REPUBLIC OF NAMIBIA



IN THE HIGH COURT OF NAMIBIA, MAIN DIVISION, WINDHOEK

APPEAL JUDGMENT

Case Title: <i>The Lewis Heyman v State</i>	Case No: HC-MD-CRI-APP-CAL-2019/00054
Division of Court: Main Division	Heard on: 12 February 2021
Heard before: Judge Claasen et Judge Usiku	Delivered on: 12 February 2021
Neutral citation: <i>Heyman v S</i> (HC-MD-CRI-APP-CAL-2019/00054) [2021] NAHCMD 40 (12 February 2021)	
The order: Appeal struck from the roll.	
Reasons for order:	
Claasen J (concurring Usiku J)	

[1] The accused was convicted of a traffic offense in that he wrongfully and unlawfully drove a Red Chevrolet vehicle with registration number N 1453 WB contrary to the condition or restriction on his driving license which pertains to his eyesight. He was sentenced on 28 May 2018.

[2] Aggrieved by the conviction, the appellant filed a letter addressed 'to whom it may concern' which letter bears two different date stamps of the clerk of court of Karibib, that of 10 June 2019 and the date of 21 June 2019. I take it that the appellant construes this letter as his appeal and he appeared in person at the hearing.

[3] The document filed by the appellant contains no grounds of appeal at all, as prescribed by the rules of court. In particular Rule 67(1) of the Magistrates Court rules provides that a convicted person shall within 14 days of conviction, sentence or the order in question lodge a notice of appeal in writing in which he shall set out clearly and specifically the grounds, whether of fact or law or both fact or law on which the appeal is based. My emphasis. These requirements were endorsed in the *locus classicus* *S v Gey van Pittius* and another¹ and numerous other judgments of this court.²

[4] Grounds of appeal is the foundation on which the appeal is based. It ought to inform the *court a quo* what parts of the judgment or conviction forms the subject of scrutiny and also serves to inform the respondent of the case it is expected to meet.

[5] The letter by the appellant does not, even at minimum, conform to the legal requirements. There are simply no grounds of appeal for the court to consider. The fact that the appellant is a lay litigant does not exempt him from the requirement to put a proper appeal before the court. In view of that, this court finds itself unable to entertain the matter and properly adjudicate it.

[6] In the result the matter is struck from the roll.

¹ *S v Gey van Pittius and another* 1990 NR 35

² *S v Kakololo* 2004 NR 7, *Kanogwe v S* (CA 39/2012)[2012] NAHCMD 45 (12 October 2012, *Beyer v S* (CA 134/2013) [2014] NAHCMD 172 (03 June 2014).

Judge's signature	Note to the parties:
CM Claasen, J	Not applicable
DN Usiku, J	
Counsel	
Appellant	State
In person	S Kanyemba Office of the Prosecutor General

APPEARANCE:

APPELLANT: In person

RESPONDENT: S KANYEMBA
Of the Office of the Prosecutor-General, Windhoek