

REPUBLIC OF NAMIBIA



IN THE HIGH COURT OF NAMIBIA, NORTHERN LOCAL DIVISION, OSHAKATI

REVIEW JUDGMENT

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| Case Title: <i>The State v Paulus Johannes Naftal</i> | Case No: CR 41/2019 |
| | Division of Court: Northern Local Division |
| Heard before: Honourable Mr. Justice January J <i>et</i> Honourable Ms. Justice Salionga J | Delivered on: 16 December 2019 |
| Neutral citation: <i>S v Naftal</i> (CR 41/2019) [2019] NAHCNLD 138 (16 December 2019) | |
| The order: <ol style="list-style-type: none">1. The conviction of theft is confirmed.2. The sentence of N\$4000 or 24 months imprisonment of which N\$1000 or 6 months imprisonment are suspended for 2 years on condition that the accused is not convicted for theft committed during the period of suspension is confirmed but amended to read that the accused is not convicted for theft committed during the period of suspension. | |
| Reasons for the order | |
| JANUARY J (SALIONGA J concurring): <ol style="list-style-type: none">1. This court has on numerous times in the past directed that it is imperative that the words | |

'committed during the period of suspension must be included when sentences are suspended.

2. 'The oversight by the magistrate on the formulation of one of the conditions of suspension is elementary and should have been guarded against; more so where this court in the past has delivered a number of similar judgments in cases where the same mistake has repeatedly been made.'¹

| | |
|----------------------|-----------------------|
| | |
| H C JANUARY JUDGE | J T SALIONGA JUDGE |

¹ See: State v Geinub & others (CR 31/2016) [2016] NAHCMD 94 (06 April 2016)