

REPUBLIC OF NAMIBIA



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

REVIEW JUDGMENT

Case Title: <i>The State v Saara Kakoto</i>	CR No.: 47/2019 Case No: 239/2019
	Division of Court: Northern Local Division
Heard before: Honourable Mr. Justice January J <i>et</i> Honourable Ms. Justice Salionga J	Delivered on: 27 December 2019
Neutral citation: <i>S v Kakoto</i> (CR 47/2019) [2019] NAHCNLD 146 (27 December 2019)	
The order: <ol style="list-style-type: none">1. The conviction of contravening section 70 (f) read with sections 1, 56 and 72 of Act 6 of 1998 – Dealing in liquor contrary to licence is confirmed;2. The sentence of N\$1000 or 30 days imprisonment, wholly suspended for three years on condition that accused completes 105 hours of community service at Okongo Combined School and that accused is not convicted of contravening section 70 (f) (h) section 1, 56, 72 committed during the period of suspension is amended to read;3. Accused is sentenced to N\$1000 or 30 days imprisonment wholly suspended for	

three years on condition that accused completes 105 hours of community service at Okongo Combined School under the supervision of Mrs Hamunyela between the hours 08h00 to 16h00 from Monday to Friday excluding week-ends and public holidays with effect from 13/03/2019 and that the accused is not convicted of contravening section 70 (f) of Act 6 of 1998 committed during the period of suspension.

Reasons for the order:

JANUARY J (SALIONGA J concurring):

[1] Guidelines for orders of community service are stipulated in *Hiemstra's Criminal Procedure*, Issue 2, May 2009 at p28-75 to p28-76 with reference to *S v Sikunyana* 1994 (1) SACR 206 (Tk) at 209 g-j. These are not a *numerus clausus* (restricted number) of guidelines.

[2] Amongst others some of these guidelines are 'the number of hours and days must be indicated, the person under whose supervision community service must be performed, the commencement date and days excluded'. An accused should know and be informed of the detail of the order as recommended by the member who completed the recommendation. This will promote certainty. It has become practice that the times, days to do duties, days excluded and under whose supervision are included in the conditions of suspension. It is indicated in the Community Service Report.

H C JANUARY
JUDGE

J T SALIONGA
JUDGE