

“ANNEXURE 11”
IN THE HIGH COURT OF NAMIBIA

Case Title: <i>S v Elia Ndjao Mbasta</i>	Case No: 452/2015 CR No: 7/2019
	Division of Court: Northern Local Division
Heard before: Honourable Mr. Justice January J et Honourable Ms. Justice Salionga J	Delivered on: 21 February 2019
Neutral citation: <i>S v Mbasta</i> (CR 7/2019) [2019] NAHCNLD 15 (21 February 2019)	
The order: <ol style="list-style-type: none">1. The conviction is confirmed.2. The sentence is confirmed but the condition of suspension is set aside and is substituted by the following: 24 months imprisonment of which 18 months are suspended for a period of 5 years on condition accused is not convicted of theft of stock committed during the period of suspension.	
Reasons for Order:	
SALIONGA J (JANUARY J concurring): <ol style="list-style-type: none">1. The accused, 34 years old, pleaded guilty to a charge of Stock theft and was convicted accordingly.	

2. He was sentenced to 24 months imprisonment of which 18 months is suspended for a period of 5 years on condition that accused is not convicted of a similar offence committed during the period of suspension.
3. The condition of suspension is too vague and not specific.
4. Accused must be certain what he is prohibited from doing during the period of suspension for the suspended portion of the sentence not to come into force. See *S v Simon* 1991 NR 104 (HC).


J T SALONGA
JUDGE


H C JANUARY
JUDGE

CR 7/2019

IN THE HIGH COURT OF NAMIBIA: NORTHERN LOCAL DIVISION
HELD AT OSHAKATI: 21 FEBRUARY 2019
BEFORE THE HONOURABLE MS JUSTICE SALIONGA J
MR JUSTICE JANUAR J

In the matter between:

STATE

v

ELIA NDJAO MBASTA

ACCUSED

Having considered the matter in chambers and having read the documents filed of record:

IT IS ORDERED THAT:

1. The conviction is confirmed.
2. The sentence is confirmed but the condition of suspension is set aside and is substituted by the following:

24 months imprisonment of which 18 months are suspended for a period of 5 years on condition accused is not convicted of theft of stock committed during the period of suspension.

BY ORDER OF COURT



REGISTRAR
/lk

J.T.S