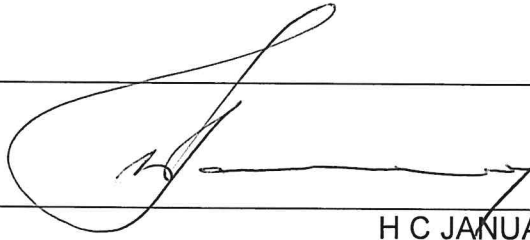


**“ANNEXURE 11”**  
**IN THE HIGH COURT OF NAMIBIA**

<b>Case Title:</b> <i>Ndilinawa Gabriel v The State</i>	<b>Case No: CC 11/2015</b> Leave to Appeal
	<b>Division of Court:</b> Northern Local Division
<b>Heard before:</b> Honourable Mr. Justice January J	<b>Delivered on:</b> 26 March 2019
<b>Neutral citation:</b> <i>Gabriel v S</i> (CC 11/2015) [2019] NAHCNLD 32 (26 March 2019)	
<b>The order:</b> 1. The application for leave to appeal is refused.	
<b>Reasons for order:</b>	
<p>JANUARY J</p> <ol style="list-style-type: none"><li>1. The applicant was convicted of murder (<i>dolus eventualis</i>).</li><li>2. This court found that he did not act in self-defence as he testified that he cut the deceased with a panga because of anger. Witnesses testified that at the critical moment they did not see an attack on the applicant. The deceased had no weapon</li><li>3. I am not convinced that another court will come to a different conclusion.</li><li>4. The sentence is not startlingly inappropriate and does not induce a sense of shock in the circumstances.</li><li>5. There is no reasonable prospects of success on appeal and I am not convinced that a court of appeal may take a different view. (See: <i>Munyama v S</i> (CC 62/2007) [2011] NAHC 23 (14 February 2011).</li></ol>	

A handwritten signature in black ink, appearing to read 'H C January', is written across the top half of a rectangular box. The signature is stylized with a large loop at the beginning and a long horizontal stroke.

H C JANUARY  
JUDGE

  
26/03/2019.

CASE NO.: CC 11/2015

IN THE HIGH COURT OF NAMIBIA: NORTHERN LOCAL DIVISION  
HELD AT OSHAKATI: 26 MARCH 2019  
BEFORE THE HONOURABLE MR JUSTICE JANUARY

In the matter between:

**NDILINAWA GABRIEL**

**APPLICANT**

v

**THE STATE**

**RESPONDENT**

Having heard **Mr Mukwata** standing in for **Ms Mainga** (Legal Aid Instruction) Counsel for the **Applicant** and **Adv. Shileka** standing in for **Adv. Gaweseb**, Counsel for the **Respondent** and having read the documents filed of record:

**IT IS ORDERED THAT:**

1. The application for leave to appeal is refused.

**BY ORDER OF COURT**

  
**REGISTRAR**  
/hsh

**TO: Ms Mainga**  
[Inonge Mainga Attorneys]

**AND TO: Adv. Gaweseb**  
[Office of the Prosecutor-General]