

“ANNEXURE 11”
IN THE HIGH COURT OF NAMIBIA

Case Title: <i>The State v Sackaria Elao</i>	Case NO: 245 /2018 CR NO: 21/2019
	Division of Court: Northern Local Division
Heard before: Honourable Mr. Justice January <i>et</i> Honourable Ms. Justice Salionga	Delivered on: 11 June 2019
Neutral citation: <i>S v Elao</i> (CR 21/2019) [2019] NAHCNLD 62 (11 June 2019)	
The order: <ol style="list-style-type: none">1. The conviction and sentence are confirmed.2. The purported order in the last paragraph (that forms part of the sentence regarding compensation) is set aside.	
Reasons for Order	
SALIONGA J (JANUARY J concurring): <ol style="list-style-type: none">1. Accused was charged with stock theft read with the provisions of the Stock Theft Act, 12 of 1990. He pleaded guilty and was convicted accordingly.2. He was sentenced to 5 years imprisonment.3. I have no problem with the conviction and sentence imposed by the magistrate and I confirmed both.4. However the magistrate added the following to the sentenced imposed: ‘The court consider (sic) to make an order as requested by the state that the money which is in possession of a seller Rosalia Johannes to be given to Teophelus Shoongo to	

receive it on behalf of the owner in the amount of N\$ 6350, Ms Ngilolokasha Hilongovali a mother to complainant by agreement the process to be mediated by Inspector Kalimbo a station commander in Okongo to issue a receipt to be forwarded to Eenhana magistrate to be attached to the record?'

5. When I received the record on review, I queried the magistrate whether by indicating on record that 'the court considers to make an order as requested by the state implied that the order was made and if so in terms of what section of the Act? I further asked what it is that the learned magistrate wanted the reviewing court to do.
6. It is not clear from the magistrate response to my query whether the order was made. However she requested for that part of the sentences to be deleted.
7. The order has no effect as it is not regulated by any law.
8. Compensation is governed by section 300 of Act 51 of 1977 or can be given as a condition of a suspended sentence imposed.


J.T. SALIONGA
JUDGE


H.C. JANUARY J
JUDGE

CR NO: 21/2019

IN THE HIGH COURT OF NAMIBIA: NORTHERN LOCAL DIVISION
HELD AT OSHAKATI: 11 JUNE 2019
BEFORE THE HONOURABLE MR JUSTICE JANUARY J
MS JUSTICE SALIONGA J

In the matter between:

STATE

v

SACKARIA ELAO

ACCUSED

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

IT IS ORDERED THAT:

1. The conviction and sentence are confirmed.
2. The purported order in the last paragraph (that forms part of the sentence regarding compensation) is set aside.

BY ORDER OF COURT



REGISTRAR

//k

J. T. S