**REPUBLIC OF NAMIBIA**

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

**APPEAL JUDGMENT**

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| **Case Title:**  *Lukas Hamukoto v The State* | **Case No:** HC-NLD-CRI-APP-CAL-2019/00042 | |
| **Division of Court:**  Northern Local Division | |
| **Heard before:**  Honourable Mr Justice January J *et*  Honourable Ms Justice Salionga J | **Delivered on:**  23 January 2020 | |
| **Neutral citation:** *Hamukoto v**S* (HC-NLD-CRI-APP-CAL-2019/00042) [2020] NAHCNLD 09 (23 January 2020) | | |
| **The order:**   1. Condonation in this matter is refused; 2. The matter is struck from the roll and considered finalized. | | |
| **Reasons for order:** | | |
| [1] The appeal is against sentence.  [2] The appellant is representing himself and the respondent by Mr Andreas.  [3] He pleaded guilty to housebreaking with intent to steal and theft of household items to the value of N$3390.  [4] He was sentenced to 36 months imprisonment of which 12 months were suspended for a period of 4 years on condition that the accused is not convicted of housebreaking with intent to steal and theft committed during the period of suspension.  [5] He filed his notice of appeal late and explained that the reasons for the delay are that:   * After the sentence he was in a state of shock and it took a while for him to come to his senses about his right to appeal. * He is illiterate and had to search for someone to assist. * That the notice of appeal took a while in the hands of the correctional officers before it was filed.   [6] The record reflects that his rights to appeal and review were appropriately explained and he understood.  [7] In my view the explanation is not reasonable.  [8] In addition the appellant does not have reasonable prospects of success on appeal.  [9] The magistrate appropriately considered the personal circumstances of the appellant, the seriousness of the crime and circumstances under which it was committed.  [10] The sentence is further in line with similar sentences for similar offences. | | |
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| H C JANUARY  JUDGE | | J T SALIONGA  JUDGE |

APPEARANCES

APPELLANT: Mr L Hamukoto (in person)

Of Oluno Correctional Facility, Ondangwa

RESPONDENT:Mr J Andreas

Of the Office of the Prosecutor-General, Oshakati