**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.
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| **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