

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

REVIEW JUDGMENT

Case Title: <i>The State v Jeremiah Hoeseb and 2 Others</i>	Case No: CR 4/2024
High Court Ref. No.: 1346/2023	Division of Court: Main Division
Heard before: Shivute J et January J	Delivered on: 29 January 2024
Neutral citation: <i>S v Hoeseb</i> (CR 4/2024) [2024] NAHCMD 23 (29 January 2024)	
The order: <ol style="list-style-type: none">1. The convictions are confirmed.2. The sentence is altered as follows: Each accused: A fine of N\$3000 and in default of payment, six months' imprisonment.	
Reasons for order:	
SHIVUTE J (concurring January J):	
[1] This is a review matter which came before me in terms of s 302 (1) of the Criminal	

Procedure Act 51 of 1977 as amended (the CPA).

[2] The three accused persons appeared in the Tsumkwe Magistrate's Court on one charge of theft. They all pleaded guilty and the magistrate proceeded to question each of them in terms of s 112(1)(b) of the CPA. After questioning the three accused, the court was satisfied that each of them admitted all the allegations set out in the charge and found them guilty as charged.

[3] The court proceeded to sentence the accused as follows: 'Accused 1, 2 and 3: a fine of N\$3000 or in default of payment, accused persons to serve six months' imprisonment.'

[4] When the matter came before me on review, a query was directed to the presiding magistrate on what she means with the sentence and whether it means that the fine of N\$3000 will be shared by the accused persons as well as the term of imprisonment.

[5] In her reply to the query, the magistrate concedes that the sentence could be misinterpreted and what she meant was that each accused person is individually sentenced to a fine of N\$3000. This concession by the magistrate is correctly made.

[6] It must be clear to each accused person whose conviction, in other words, which accused person's subsequent conviction during the period of suspension will bring their own suspended sentence into operation.

[7] As a result, the convictions and sentence are confirmed. However, to remove any cause of confusion or uncertainty, the sentence is altered as follows:

'Each accused: A fine of N\$3000 and in default of payment, six months' imprisonment.'

N N SHIVUTE JUDGE	H C JANUARY JUDGE