

THE STATE vs MALUKUSI ANDREAS

1994-12-01 Hannah, J:

Mtambanengwe, J

JUDGMENT ON SENTENCE

Held: For a second or subsequent conviction for an offence in terms of Act 12 of 1990 the mandatory minimum sentence is 3 years imprisonment, to sentence one to 3 years imprisonment and suspend 1 year is an error. The sentence must be corrected to read 3 years imprisonment.

IN THE HIGH COURT OF NAMIBIA

THE STATE

MALUKUSI ANDREAS

(HIGH COURT REVIEW CASE NO 3734/94)

CORAM: HANNAH et MTAMBANENGWE, JJ.

Delivered on: 1994.12.01

**REVIEW JUDGMENT**

**MTAMBANENGWE, J.** t This review matter was sent up to me with the following comment by the trial magistrate:

"1. After I sentenced the accused I realized that I had erroneously suspended one year of the sentence although the accused is over 18 years of age.

2 . I respectfully request that you alter the sentence to read three (3) years imprisonment."

The accused was convicted of stock theft. He stole and slaughtered one goat valued at N\$180.00. He has a previous conviction for stock theft and in terms of the Act (Act No 12 of 1990) as amended by section 3(b) of the Stock Theft Amendment (Act No 19 of 1993) for a second or subsequent conviction for contravention of the Act the mandatory

minimum sentence is 3 years, the maximum being 20 years without the option of a fine.

Accordingly the conviction is confirmed but the sentence is altered simply to 3 years imprisonment.

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HANNAH, JUDGE

The sentence is ante-dated to 31st October, 1994.

A handwritten signature in black ink, appearing to read 'Hannah', written over a horizontal line.