



CASE NO.: CR 03/2010

**IN THE HIGH COURT OF NAMIBIA
HELD AT OSHAKATI**

In the matter between:

THE STATE

and

SHITENI SHAPANGE

(HIGH COURT REVIEW CASE NO.: 08/2011)

CORAM: LIEBENBERG, J. *et* TOMMASI, J. Delivered on:

02.02.2011

REVIEW JUDGMENT

LIEBENBERG, J.: [1] The accused appeared in the Magistrate's Court Oshakati on a charge of contravening s 2 (b) of Act 41 of 1971 (Possession of cannabis) and subsequent to his plea of guilty, he was convicted and sentenced as follows:

"N\$600.00 or 6 months of which N\$300.00 or 3 months is suspended for 3 years on condition that accused is not convicted of an offence of contravening section 2 (a) or 2 (b) of Act 41 of 1971."

[2] The conviction is in order and will be confirmed. The sentence, however, is not as one of the conditions of the suspended portion of the sentence was omitted, ie that the accused should not again be convicted of a similar offence committed during the period of suspension; and it therefore has to be corrected. Acknowledging the oversight on review, the magistrate requested the Court to correct the sentence accordingly.

[3] In the result, the Court makes the following order:

1. The conviction is confirmed.
2. The sentence is amended to read: "N\$600.00 or 6 months imprisonment of which N\$300.00 or 3 months imprisonment is suspended for 3 years on condition that the accused is not convicted of an offence in contravention of s 2 (a) or (b) of Act 41 of 1971, committed during the period of suspension."

LIEBENBERG, J

I agree.

TOMMASI, J