



CASE NO.: CR 47/2012

**IN THE HIGH COURT OF NAMIBIA
HELD IN WINDHOEK**

In the matter between:

THE STATE

and

NICODEMUS GEWERS

(HIGH COURT REVIEW CASE NO.: 1526/2011)

(MAGISTRATE'S SERIAL NO.: 62/2011)

CORAM: PARKER, J et SHIVUTE, J

Delivered on: 2012 June 15

REVIEW JUDGMENT

SHIVUTE, J: [1] The accused person appeared in the Magistrate' Court Khorixas. He was convicted of the offence of Stock Theft read with the provisions of Stock Theft Act, (Act 12 of 1990) as amended. He was sentenced as follows:

"2 (two years' imprisonment of which 1 (one) year is suspended for 3 (three) years on condition accused is not convicted of theft taking into consideration provisions of Stock Theft Act (12 of 1990) or theft within period of suspension."

[2] I have no problem with the conviction. However, the problem lies with the formulation of the sentence.

[3] In formulating the sentence the word "committed" has been omitted from the suspended sentence. The conditions of suspension must be clear and specific as the accused must understand them and know how to behave himself in compliance thereof.

[4] In the result the following order is made:

(1) The conviction is confirmed.

(2) The sentence is altered to read as follows:

Two (2) years' imprisonment of which one (1) year is suspended for three (3) years on condition that the accused is not convicted of theft taking into consideration the provisions of the Stock Theft Act, (Act 12 of 1990) or theft committed during the period of suspension.

SHIVUTE, J

I agree.

PARKER, J