



CASE NO.: CR 12/2012

NOT REPORTABLE

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

and

RAFAEL KUJANE

ACCUSED NO. 1

STEFANUS PANA

ACCUSED NO. 2

HIGH COURT REVIEW CASE NO.: 1083/2011

CORAM: HOFF, J *et* MILLER, AJ

Delivered on: 21 February 2012

REVIEW JUDGMENT

HOFF, J: [1] The accused was convicted of stock theft and sentenced as follows:

“24 months imprisonment of which 14 months imprisonment is suspended for a period of 3 years on condition that the accused is not convicted of contravening section 11 (1)(a), 1, 14 and 17 of the stock theft Act 12 of 1990 as amended”.

[2] I asked the magistrate to explain the sentence imposed. The magistrate replied that “on hindsight” he noticed that the sentence is incomplete as it does not contain the phrase “committed during the period of suspension”.

I agree with the magistrate.

[3] There is however another error in the formulation of the sentence. In its present form the accused is prohibited from contravening sections 11 (1)(a), 1, 14 , and 17 of Act 12 of 1990. Section 1 deals with definitions, section 14 deals with penalty provisions and section 17 deals with issues of compensation. These sections certainly cannot be contravened.

[4] The sentence needs to be rectified. The conviction is confirmed.

[5] In the result the sentence is amended as follows:

24 months imprisonment of which 14 months imprisonment are suspended for a period of 3 years on condition that the accused is not convicted of contravening section 11 (1)(a) read with sections 1, 14 and 17 of Act 12 of 1990 as amended, committed during the period of suspension.

HOFF, J

I agree

MILLER, AJ