



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: CR: 68/2013

In the matter between:

THE STATE

and

MARTIN GEINGOB

ACCUSED

(HIGH COURT MAIN DIVISION REVIEW REF NO. 1372/2013)

Neutral citation: *S v Geingob* (CR68/2013)[2013]NAHCMD 311(01 November 2013)

Coram: HOFF J and UNENGU AJ

Delivered: 01 November 2013

ORDER

- (a) The conviction is confirmed.
- (b) The sentence is set aside and substituted with the following sentence:
- A fine of N\$1000 or six months imprisonment.
- (c) The sentence is antedated to 10.09.2013.

JUDGMENT

HOFF J (UNENGU AJ concurring):

[1] The accused was convicted in Outjo magistrate's court for the possession of cannabis (two balies) in contravention of the provisions of s 2(b) of Act 41 of 1971 as amended and sentenced to a fine of N\$2000 or 24 months imprisonment. The accused was a first offender and did not pay the fine.

[2] I queried the magistrate in respect of the sentence of 24 months imprisonment imposed.

[3] The magistrate in his reply justified the sentence emphasising the effect of drugs especially on young people in the society.

[4] I am however of the view that the magistrate misdirected himself by over-emphasising the interests of society and did not give due regard to the fact that the accused was a first offender, the small amount of cannabis found in his possession,

and the fact that there is no evidence that the accused intended to sell the said cannabis.

[5] In the result the following orders are made:

- (a) The conviction is confirmed.
- (b) The sentence is set aside and substituted with the following sentence:

A fine of N\$1000 or six months imprisonment.
- (c) The sentence is antedated to 10.09.2013.

E P B HOFF
Judge

E P UNENGU
Acting Judge

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