



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

Case no: CR 14/2013

THE STATE

Versus

NXAU TSAMKXAO HEIDEN

(HIGH COURT MAIN DIVISION REF. NO 922/2012)

(MAGISTRATE SERIAL NO. :3/2012)

Neutral citation: *The State v Heiden* (CR 14/2013) [2013] NAHCMD 49 (26 February 2013)

Coram: SHIVUTE, J et UNENGU, AJ

Delivered: 26 February 2013

ORDER

1. The conviction and sentence are confirmed.
2. The order of forfeiture of N\$97.00 to the state is set aside and substituted with the forfeiture of N\$10.00 to the state.

REVIEW JUDGMENT

SHIVUTE J (UNENGU, A J concurring):

[1] The accused appeared in the magistrate's court Grootfontein on a charge of possession of dependence producing substance contravening s 2 (b) of Act 41 of 1971 as amended. He was convicted as charged after the state led evidence.

[2] I am satisfied with the conviction, however, an order was made that N\$97.00 was forfeited to the state. According to the record the amount of N\$97.00 was not featured anywhere.

[3] I directed a query to the magistrate as to how did the amount of N\$97.00 get involved in the matter?

[4] The learned magistrate responded to the query that, the accused was found with N\$10.00 in his pocket and not N\$97.00. Therefore the order should have read N\$10.00 forfeited to the state.

[5] I fully agree with the magistrate's explanation that N\$10.00 was supposed to be forfeited to the state and not N\$97.00.

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

1. The conviction and sentence are confirmed.
2. The order of forfeiture of N\$97.00 to the state is set aside and substituted with the forfeiture of N\$10.00 to the state.

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N N Shivute
Judge

E P Unengu
Acting Judge

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