



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

APPEAL JUDGMENT

Case no: CA 102/2015

In the matter between:

**STANLEY JOHNY BEUKES**

**APPELLANT**

And

**THE  
RESPONDENT**

**STATE**

**Neutral citation:** Beukes v State (CA 102/2015) [2016] NAHCMD 165 (10 June 2016)

**Coram:** SIBOLEKA J and USIKU J

**Heard:** 22 April 2016

**Delivered:** 10 June 2016

**Flynote:** Appeal against conviction and sentence – appellant convicted of rape - Notice of appeal filed out of time – No proper grounds for condonation and no prospects of success shown – Notwithstanding condonation granted – An improper Notice of appeal is no ground at all and as such a nullity.

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**ORDER**

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In the result, the appeal is dismissed.

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**APPEAL JUDGMENT**

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USIKU J, (SIBOLEKA J CONCURRING)

[1] The appellant was charged of rape in contravention of section 2 (1) (a) read with section 1 2 (2, 2 (3) 4, 5, 6 7 of the Combating of Rape Act 8 of 2000. He pleaded guilty and was convicted and sentenced to 17 years imprisonment on the 20 September2015.

[2] He now appeals against the conviction and the sentence.

[3] At the inception of the appeal Mr Lutibezi who appeared on behalf of the respondent raised a point in *Limine*, namely that a convicted person who wishes to appeal against conviction or sentence should file a notice of appeal within fourteen (14) days after the date of such conviction, sentence or order with the clerk of the court in which he shall set out clearly and specifically the grounds, whether of facts or law or both fact or law, on which the appeal is based, Rule 67(1) of the magistrates court rules.

[3] The rules provide in simple and unambiguous language that the appellant must lodge his notice of appeal in writing in which he must set out “clearly and specifically” the grounds on which the appeal is based. He must do this to enable the magistrate to know what the issues are which are to be challenged so that he can deal with them, in his reasons for judgment. Counsel for the state must know what

the issues are so that he can prepare and present argument which will assist the court in its deliberations. Finally, the court itself will wish to be appraised of the grounds so that it can know what portions of the record to concentrate on and what preparation, if any, it should be made in order to guide and stimulate a good argument in court.

[4] The purported grounds purported of appeal on which the appellant relies are no grounds at all but conclusions made by himself. The requirements as set out in Rule 67(1) of the Magistrates court Rules have not been met. It is *trite* that grounds of appeal should not embody arguments or conclusions reached by an appellant. It must be specific and clear.

[5] In my view it is not clear whether the appeal lies against sentence or against conviction or both sentence and conviction. I am of the view that the point in *limine* taken by counsel appearing on behalf of the respondent is well founded

[6] In the result the appeal is dismissed.

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DN USIKU  
Judge

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A SIBOLEKA  
Judge

## APPEARANCES

APPELLANT: Mr Stanley Johnny Beukes

Windhoek Central Prison: Inmate

RESPONDENT: Mr Lutibezi

Of the Office of the Prosecutor-General, Windhoek