

REPUBLIC OF NAMIBIA



IN THE HIGH COURT OF NAMIBIA, MAIN DIVISION, WINDHOEK

REVIEW JUDGMENT

<b>Case Title:</b> <i>The State v Gustav Stein</i>	<b>Case No:</b> CR 100/2019
	<b>Division of Court:</b> Main Division
<b>Heard before:</b> Honourable Mr. Justice Unengu AJ <i>et</i> Honourable Ms. Justice Usiku J	<b>Delivered on:</b> 09 December 2019
(HIGH COURT MAIN DIVISION REVIEW REF NO. 2254/2019)	
<b>Neutral citation:</b> <i>S v Stein</i> (CR 100/2019) [2019] NAHCMD 541 (09 December 2019)	
<b>The order:</b> <ol style="list-style-type: none"><li>1. The conviction is in order and is confirmed.</li><li>2. The sentence of four (4) months imprisonment imposed by the magistrate is hereby set aside and substituted for the following sentence: 'A fine of N\$2 000 or four (4) months imprisonment in default of payment.'</li><li>3. The sentence is antedated to 14 October 2019.</li></ol>	
<b>Reasons for order:</b>	
UNENGU, AJ (USIKU, J concurring): <ol style="list-style-type: none"><li>1. The matter was submitted for automatic review following the provisions of s 302 Criminal Procedure Act, 51 of 1977.</li><li>2. The accused was charged, convicted and sentenced to serve an imprisonment</li></ol>	

<p>sentence of four (4) months for possession of cannabis.</p>	
3.	<p>Given the fact that the matter was disposed of in terms of s 112(1)(a), I found the sentence not to be in accordance with justice, hence I sent a query to the learned magistrate to explain why she imposed an effective sentence of imprisonment without – an option of a fine.</p>
4.	<p>The magistrate in her reply conceded the mistake and indicated that she was influenced by the accused's previous conviction of the same offence proved by the State to impose a custodial sentence without an option of a fine and in the same vein proposed that her sentence be substituted with a sentence of a fine of N\$2 000 or four (4) months imprisonment.</p>
<p style="text-align: center;">E P UNENGU ACTING JUDGE</p>	
<p style="text-align: center;">D N USIKU JUDGE</p>	