

REPUBLIC OF NAMIBIA

HIGH COURT OF
WINDHOEK
REVIEW JUDGMENT



NAMIBIA MAIN DIVISION,

Case Title: <i>The State</i> v <i>Andrew Pieters</i>	Case No: CR 76/2022
Heard before: Hon. Judge Shivute et Hon. Judge January	Division of Court: Main Division
Delivered on: 5 August 2022	
Neutral citation: <i>S v Pieters</i> (CR 76/2022) [2022] NAHCMD 390 (5 August 2022)	
The order: a. The conviction is confirmed. b. The sentence imposed is confirmed but amended to read as follows: Accused is fined N\$ 1000 or 12 months' imprisonment wholly suspended for 3 years, on condition that accused is not convicted of defeating or obstructing the course of justice, committed during the period of suspension.	
Reasons for order:	
SHIVUTE J (JANUARY J concurring): [1] The accused was convicted of defeating or obstructing the course of justice, whereby he was sentenced as follows: 'Fined N\$ 1000 (One Thousand Namibian Dollars) or 12 (Twelve) months' imprisonment wholly suspended for 3 (Three) years, on condition that accused is not convicted of obstruction,	

committed during the period of suspension.'

[2] The case was submitted for automatic review in the ordinary course in terms of section 302 of the Criminal Procedure Act 51 of 1977 (CPA).

[3] The review court had an issue with the second part of the sentence in that the condition of suspension of sentence reads as follows;

'...on condition that accused is not convicted of obstruction, committed during the period of suspension.'

[4] A query was directed to the magistrate for him to explain what he meant with the condition of suspension of sentence and whether there is an offence called obstruction.

[5] The magistrate responded that it was a typing error and proposed that the condition of suspended sentence be corrected to read as follows;

'Accused is fined N\$ 1000 (One Thousand Namibian Dollars) or 12 (twelve) months' imprisonment wholly suspended for 3 years, on condition that accused is not convicted of defeating or obstructing the course of justice, committed during the period of suspension.'

[6] CR Snyman defines the offence of defeating or obstructing the course of justice as the unlawful and intentional engaging in conduct which defeats or obstructs the course or administration of justice.¹ It is a single offence, not one involving two distinct alternative offences.²

[7] Taking the above into consideration, the magistrate erred by omitting 'defeating or' in the condition of the suspended sentence, thus the sentence must be amended.

[8] In the result, it is ordered:

a. The conviction is confirmed.

b. The sentence imposed is confirmed but amended to read as follows:

Accused is fined N\$ 1000 or 12 months' imprisonment wholly suspended for 3

¹ C R Snyman *Criminal Law* 6 ed (2014) at 327.

² C R Snyman *Criminal Law* 6 ed (2014) at 328.

years, on condition that accused is not convicted of defeating or obstructing the course of justice, committed during the period of suspension.

N N SHIVUTE Judge	H C JANUARY Judge