

REPUBLIC OF NAMIBIA

NOT REPORTABLE



HIGH COURT OF NAMIBIA NORTHERN LOCAL DIVISION, OSHAKATI

JUDGMENT

Case no: CR 07/2013

In the matter between:

THE STATE

and

MUHINDA MAKANDO

High Court NLD Review Case Ref No.: 212/2012

Neutral citation: *The State v Makando* (CR 07/2013) [2013] NAHCNLD 17
(15 April 2013)

Coram: LIEBENBERG J and TOMMASI J

Delivered: 15 April 2013

Flynote: Criminal procedure – Review – Sentence – Condition of suspension incomplete – Sentence corrected.

ORDER

The sentence is corrected to read: Both counts taken together for sentence – Accused is sentenced to a fine of N\$2 000 or twelve months' imprisonment of which N\$1 000 or six months' imprisonment is suspended for a period of three years on condition that the accused is not convicted of contravening section 2 (a) or (b) of Act 41 of 1971, committed during the period of suspension.

JUDGMENT

LIEBENBERG J (TOMMASI J concurring):

[1] The accused was correctly convicted on two counts of contravening s 2 (b) of Act 41 of 1971 (Possession of a dependence-producing plant – dagga) and the court having taken the counts together, imposed a fine, alternatively imprisonment of which half is suspended on condition of good behaviour. The conviction is in order and will be confirmed.

[2] Regarding sentence the magistrate concedes that the sentence passed by the court is incomplete in that it does not reflect as a condition of suspension that the prohibited act should be committed within the period of suspension. The concession is well made and the sentence stands to be corrected.

[3] Accordingly, the sentence is corrected to read:

Both counts taken together for sentence – Accused is sentenced to a fine of N\$2 000 or twelve months' imprisonment of which N\$1 000 or six months' imprisonment is suspended for a period of three years on condition that the accused is not convicted of contravening section 2 (a) or (b) of Act 41 of 1971, committed during the period of suspension.

JC LIEBENBERG
JUDGE

MA TOMMASI
JUDGE