

REPUBLIC OF NAMIBIA



IN THE HIGH COURT OF NAMIBIA, NORTHERN LOCAL DIVISION, OSHAKATI

REVIEW JUDGMENT

Case Title: <i>The State v Matheus Klaudia</i>	Case No: CR 40/2019
	Division of Court: Northern Local Division
Heard before: Honourable Mr. Justice January J et Honourable Ms. Justice Salionga J	Delivered on: 16 December 2019
Neutral citation: <i>S v Klaudia</i> (CR 40/2019) [2019] NAHCNLD 144 (16 December 2019)	
The order: <ol style="list-style-type: none">1. The conviction of a contravention of section 12 (4) of the Immigration Control Act, Act 7 of 1993 is confirmed.2. The sentence of N\$1 500 or 6 months imprisonment wholly suspended for 3 years on condition that the accused is not convicted for any illegal immigrant offence is set aside and substituted with;3. A sentence of N\$1500 or 6 months imprisonment wholly suspended for 3 years on condition that accused is not convicted for a contravention of section 12(4) of the Immigration Control Act, Act 7 of 1993 committed during the period of suspension.	
Reasons for the order	

JANUARY J (SALIONGA J concurring):

[1] This court has on numerous times in the past directed that it is imperative that the words “committed during the period of suspension” must be included when sentences are suspended.

‘The oversight by the magistrate on the formulation of one of the conditions of suspension is elementary and should have been guarded against; more so where this court in the past has delivered a number of similar judgments in cases where the same mistake has repeatedly been made.’¹

[2] The condition of suspension that the accused is not convicted of any illegal immigrant offence is too wide and vague. The Immigration Control Act provides for a number of offences. Some specific offences and other general offences. The accused should be certain what it is that she is prohibited to do not to put into operation the suspended sentence.

H C JANUARY
JUDGE

J T SALIONGA
JUDGE

¹ See *State v Geinub & others* (CR 3/2016) [2016] NAHCMD 94 (06 April 2016)