

REPUBLIC OF NAMIBIA



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

REVIEW JUDGMENT

Case Title: <i>S v Immanuel Matheus</i>	CR No: 24/2019
	Division of Court: Northern Local Division
Heard before: Honourable Mr. Justice January J et Honourable Ms. Justice Salionga J	Delivered on: 1 August 2019
Neutral citation: <i>S v Matheus</i> (CR 24/2019) [2019] NAHCNLD 71 (1 August 2019)	
IT IS ORDERED THAT: 1. The conviction and sentence are set aside. 2. The matter is remitted to the Magistrate's Court Outapi for the magistrate to properly question the accused in terms of s 112(1)(b) of the Criminal Procedure Act, 51 of 1977 and further deal with the matter in accordance with the law.	
Reasons for the above order:	

SALIONGA J (JANAURY J concurring):

- [1] Accused stands charged with Assault with intent to do grievous bodily harm read with the Combating of Domestic Violence Act 4 of 2003. He pleaded guilty and was convicted accordingly.
- [2] He was sentenced to 36 months imprisonment.
- [3] When I received the record on review I queried the magistrate how did she satisfy herself that the accused admitted all the elements of the offence if no question was asked of his intention?
- [4] In her reply the learned magistrate conceded to having omitted to question the accused person of his intention to assault the complainant. She therefore requests for the record to be reverted back to her for proper questioning.
- [5] In my view the proposition is properly made and the matter is returned to the magistrate to question the accused properly.
- [6] The above order is made.

J.T. SALIONGA
JUDGE

H.C. JANUARY
JUDGE