

REPUBLIC OF NAMIBIA



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

REVIEW JUDGMENT

<b>Case Title:</b> <i>S v Leonard Panduleni Paulus</i>	<b>CR No: 23/2019</b>
	<b>Division of Court:</b> Northern Local Division
<b>Heard before:</b> Honourable Mr. Justice January J et Honourable Ms. Justice Salionga J	<b>Delivered on:</b> 1 August 2019
<b>Neutral citation:</b> <i>S v Paulus</i> (CR 23/2019) [2019] NAHCNLD 72 (1 August 2019)	
<b>IT IS ORDERED THAT:</b> <ol style="list-style-type: none"><li>1. The conviction and the sentence are set aside.</li><li>2. The matter is remitted to the magistrate to apply section 112(1)(b) of the Criminal Procedure Act 51 of 1977 and to sentence the accused afresh. The magistrate must however take into consideration the period the accused spent in prison.</li></ol>	
<b>Reasons for the above order:</b>	

SALIONGA J (JANAURY J concurring):

- [1] The accused, 41 years old, pleaded guilty to a charge of theft from the employer and section 112(1)(a) of the Criminal Procedure Act 51 of 1977 was applied. He was convicted as charged and sentenced to N\$1500 or 5 months imprisonment.
- [2] On review I queried the magistrate whether section 112(1)(a) of Act 51 of 1977 was appropriate to be applied in the circumstances of this case and whether the sentence imposed was not too lenient.
- [3] The learned magistrate conceded that section 112(1)(a) of the Act should not have been applied and the sentence imposed was too lenient.
- [4] In the result the matter is remitted to the magistrate to comply with the order outlined above.

<b>Judge's signature:</b>	<b>Judge's signature:</b>