

REPUBLIC OF NAMIBIA



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

REVIEW JUDGMENT

Case Title: <i>The State v Nahenda Samuel</i>	CR No.: 12/2020 Case No.: 452/2017
	Division of Court: Northern Local Division
Heard before: Honourable Mr Justice January J et Honourable Mrs Justice Salionga J	Delivered on: 10 February 2020
Neutral citation: <i>S v Samuel</i> (CR 12/2020) [2020] NAHCNLD 22 (10 February 2020)	
The order: <ol style="list-style-type: none">1. The conviction of negligent discharge in contravention of section 38(1) (l) read with sections 1, 38 and 39 of Act 7 of 1996 as amended is confirmed;2. The conviction of possession of a fire arm without a license in contravention of section 2 read with sections 1, 38 and 39 is confirmed;3. The sentence of N\$3000 or 12 months imprisonment of which N\$1500 or six months imprisonment is suspended for five years is confirmed but amended to read in addition on condition that the accused is not convicted for a contravention of section 38(1) (l) of Act 6 of 1997 committed during the period of suspension;4. The sentence of N\$2000 or ten months imprisonment of which N\$1000 or five	

months imprisonment is suspended for a period of five years is confirmed but amended in addition to read on condition that accused is not convicted for a contravention of section 2 of Act 6 of 1997 committed during the period of suspension.

Reasons for the order:

JANUARY J (SALIONGA J concurring):

[1] The sentences imposed in both counts were suspended without any conditions attached.

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

'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.'

H C JANUARY
JUDGE

J T SALIONGA
JUDGE

¹ See: *State v Geinub* (CR 31/2016) [2016] NAHCMD 94 (06 April 2016)