

REPUBLIC OF NAMIBIA



IN THE HIGH COURT OF NAMIBIA, NORTHERN LOCAL DIVISION

HELD AT OSHAKATI

REVIEW JUDGMENT

Case Title: <i>The State v Timoteus Shiindi and Another</i>	CR No: 11 /2021 Case No.: 24/2020
	Division of Court: Northern Local Division
Heard before: Honourable Ms. Justice Salionga J Honourable Mr Justice Munsu AJ	Delivered on: 15 March 2021
Neutral citation: <i>S v Shiindi</i> (CR 11/2021) [2021] NAHCNLD 23 (15 March 2021)	
The order: <ol style="list-style-type: none">1. The conviction is confirmed.2. The sentence is amended to read; each accused is sentenced to 7(seven) months imprisonment.	
Reasons for Order SALIONGA J (Munsu AJ concurring): <ol style="list-style-type: none">1. The matter came before this court on automatic review in terms of section 304 of Act 51 of 1977. Two accused persons were charged and correctly convicted on the charge of theft. They were sentenced to 7 (seven) months imprisonment.2. The reviewing Judge has no qualm with the conviction and will be confirmed. It is the	

framing of the sentence that this court is concerned with.

3. A query was directed to the learned magistrate considering that two accused were convicted and sentenced, how does the learned magistrate intend the sentence to be served/enforced?
4. The magistrate in her reply stated that after perusing through the record the court noted that the framing of the sentence on the J15 and review sheets is not the same. She further stated that it was a complete oversight on her side and seek guidance.
5. It is trite law that where more than one accused persons are sentenced for the same offence the sentence must clearly and specifically be framed to reflect that “each” and not “both” accused has to serve the sentence.
6. From the record it is apparent that the sentence is not properly framed as it is not clear how both accused persons were going to serve the sentence of 7 (seven) months imprisonment imposed. In view of the magistrate’s concession, the sentence has to be corrected to reflect the missing word.
7. In the result:
 - (1) The convictions are confirmed.
 - (2) The sentence is amended to read; **each** accused is sentenced to 7 (seven) months imprisonment.

J T SALIONGA
JUDGE

D C MUNSU
ACTING JUDGE