



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

Case No: CR 28/2016

THE STATE

versus

SWARTBOOI REVIVAL

AFRIKANER IVAN

(HIGH COURT MAIN DIVISION REVIEW REF NO. 52/2016)

(MAGISTRATE'S REVIEW NO.: 95/2015)

Neutral citation: *S v Swartbooi and Another* (CR 28/2016) [2016] NAHCMD 103 (8 April 2016)

Coram: LIEBENBERG, J *et* SHIVUTE, J

Delivered: 8 April 2016

ORDER

1. Each accused is sentenced to N\$1000 (one thousand) fine in default of payment three months imprisonment.
2. Sentence antedated to 30 November 2015.

REVIEW JUDGMENT

SHIVUTE J (LIEBENBERG, J concurring):

[1] The accused persons were convicted of drunk, violent or disorderly conduct in a public place contravening s 71(1)(h)(i) read with ss1, 57, 71(2), 71(3) and 72 Act 6 of the Liquor Act 1998 upon their own bare plea of guilty

[2] The conviction is in order. However, the problem lies with the sentence which reads:

'Fined N\$1000 (one thousand) in default 3 three months imprisonment.'

[3] I directed a query to the magistrate what she meant by the sentence and whether the sentence would have to be shared.

[4] In response to the query the learned magistrate said he intended to mean that each accused is sentenced to a fine of N\$1000 (one thousand) or 3 months imprisonment.

[5] The concession is correctly made, and the sentence will be amended accordingly. The sentence must be clear and concisely framed for it not to create uncertainty.

[6] In the result the sentence is altered to read:

1. Each accused is sentenced to N\$1000 (one thousand) fine in default of payment three months imprisonment.
2. Sentence antedated to 30 November 2015.

N N Shivute
Judge

J C Libenberg
Judge