

**REPUBLIC OF NAMIBIA**

NOT REPORTABLE



**HIGH COURT OF NAMIBIA, MAIN DIVISION**

**JUDGMENT**

**CR No: 12/2016**

In the matter between

**THE STATE**

And

**ERICK GOAGOSEB**

**HIGH COURT MD REVIEW CASE NO 173/2016**

**THE STATE**

And

**SALMON KOOPER**

**HIGH COURT MD REVIEW CASE NO 172/2016**

*Neutral citation: State v Goagoseb (CR 12/2016) [2016] NAHCMD 53 (03 March 2016)*

**CORAM: LIEBENBERG J et SHIVUTE J**

**DELIVERED: 03 March 2016**

**Flynote:** Criminal procedure – Sentence – Condition of suspension – Condition that accused not be convicted of prohibited offence *committed* during period of suspension – Sentence corrected.

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**ORDER**

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In the matter of *The State v Erick Goagoseb*:

1. The conviction is confirmed.
2. The sentence is confirmed but amended to read: Fined N\$1 500 (One thousand five hundred) or 3 (Three) months' imprisonment of which N\$500 (Five hundred) or 1 (One) month imprisonment is suspended for 3 (Three) years, on condition that the accused is not convicted of theft committed during the period of suspension.

In the matter of *Salmon Kooper*:

1. The conviction is confirmed.
2. The sentence is confirmed but amended to read: Fined N\$2 000 (Two thousand) or 3 (Three) months' imprisonment of which N\$1 000 (One thousand) or 1 (One) month is suspended for 3 (Three) years, on condition that the accused is not convicted of drunk, violent and disorderly conduct in contravention of s 71 (1) of Act 6 of 1998, committed during the period of suspension.

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## JUDGMENT

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LIEBENBERG J: (Concurring SHIVUTE J)

[1] Both accused in the above captioned cases were convicted on pleas of guilty and the matters finalised in terms of s 112 (1)(a) of the Criminal Procedure Act, 51 of 1977. Each was sentenced to a fine, partly suspended on condition of good conduct. The convictions are proper and will be confirmed.

[2] As regards the conditions of suspension in respect of each, the magistrate omitted to insert, as a condition of suspension, the word *committed* in order to reflect that the accused should not in future be convicted of the prohibited offence *committed* during the period of suspension. In this respect the sentences stand to be corrected.

[3] In the result, it is ordered:

In the matter of *The State v Erick Goagoseb*:

1. The conviction is confirmed.
2. The sentence is confirmed but amended to read: Fined N\$1 500 (One thousand five hundred) or 3 (Three) months' imprisonment of which N\$500 (Five hundred) or 1 (One) month imprisonment is suspended for 3 (Three) years, on condition that the accused is not convicted of theft committed during the period of suspension.

In the matter of *Salmon Kooper*.

1. The conviction is confirmed.
2. The sentence is confirmed but amended to read: Fined N\$2 000 (Two thousand) or 3 (Three) months' imprisonment of which N\$1 000 (One thousand) or 1 (One) month is suspended for 3 (Three) years, on condition that the accused is not convicted of drunk, violent and disorderly conduct in contravention of s 71 (1) of Act 6 of 1998, committed during the period of suspension.

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**J C LIEBENBERG**

**JUDGE**

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**N N SHIVUTE**

**JUDGE**