



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: CR: 55/2013

In the matter between:

THE STATE

and

MAKENZIE TSOWASEB

ACCUSED

(HIGH COURT MAIN DIVISION REVIEW REF NO. 666/2013)

Neutral citation: *State v Tsowaseb* (CR 55/2013) [2013] NAHCMD 244 (15 August 2013)

Coram: HOFF J and SMUTS J

Delivered: 15 August 2013

ORDER

- (a) The conviction is confirmed.
- (b) The sentence is amended to read as follows:

N\$3000 or 20 months imprisonment of which N\$1500 or 10 months imprisonment are suspended for a period of 3 years on condition that the accused is not convicted of assault, assault with intent to do grievous bodily harm, or of domestic violence as defined in section 2 of Act 4 of 2003 committed during the period of suspension.

JUDGMENT

HOFF J (SMUTS J concurring):

[1] The accused was convicted of assault with intent to do grievous bodily harm (read with the provisions of the Domestic Violence Act 4 Of 2003) and sentenced as follows:

‘N\$3 000.00 or 20 months imprisonment of which N\$1 500.00 or 10 months imprisonment are suspended for a period of 3 years on condition that the accused is not convicted of assault, assault with intent to do grievous bodily harm or any offence under Act 4 of 2003 committed during the period of suspension.’

[2] I directed a query to the magistrate enquiring whether that part of the sentence which refers to ‘any offence under Act 4 of 2003 committed during the period of suspension’ is not too wide and onerous.

[3] The magistrate in her reply conceded that it is too wide and suggested that an amended sentence may read: 'the accused is not convicted of contravening section 2 of Act 4 of 2003'.

[4] Section 2 deals with the definition of domestic violence.

[5] In the result the following orders are made:

(a) The conviction is confirmed.

(b) The sentence is amended to read as follows:

N\$3000 or 20 months imprisonment of which N\$1500 or 10 months imprisonment are suspended for a period of 3 years on condition that the accused is not convicted of assault, assault with intent to do grievous bodily harm, or of domestic violence as defined in section 2 of Act 4 of 2003 committed during the period of suspension.

E P B HOFF
Judge

D SMUTS
Judge