

IN THE HIGH COURT OF NAMIBIA

THE STATE

versus

ALFRED URI-KHOB

(HIGH COURT REVIEW CASE NO. 1919/96)

THE STATE

versus

PETRUS PLAATJIES

(HIGH COURT REVIEW CASE NO. 1920/96)

CORAM: STRYDOM, J.P. et FRANK, J.

Delivered on: 1996.06.19

REVIEW JUDGMENT

FRANK, J. : These are two review matters. In both the matters the accused were convicted of the possession of dagga or cannabis contrary to the provisions of section 2(b) of Act 41 of 1971. Both accused were convicted pursuant to pleas of guilty and the resultant questioning in terms of section 112(1) (b) . Both were first offenders and both were sentenced to seven months imprisonment. In the Uri-Khob case the quantity involved was 10 grams and in the Plaatjies case it was 45 grams.

In the Plaatjies case the accused, a 43 year old male,

indicated that he was employed and could pay a fine whereas in the Uri-Khob matter the 24 year old male accused did not place anything about his ability to pay a fine before Court. He did however state that he was unemployed.

The general rule is that first offenders convicted of the possession of a relatively small quantity of dagga are not sentenced to imprisonment without an alternative if at all possible. In general a first offender faces a fine with imprisonment as the alternative. Where a fine is inappropriate a suspended sentence of imprisonment is normally imposed.

As both the accused were sentenced on 5th June, 1996 they have already served part of the sentence imposed and I therefore do not consider the imposition of a fine.

In the result in both matters the sentences are set aside and substituted with the following sentence:

Each accused is sentenced to four (4) months imprisonment three (3) whereof are suspended for three (3) years on condition that the accused is not convicted of contravening section 2(b) of Act 41 of 1971 committed within the period of suspension.



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FRANK, JUDGE

I agree

A handwritten signature in black ink, appearing to read "Strydom", written over a horizontal line.

STRYDOM, JUDGE-PRESIDENT