



REPUBLIC OF NAMIBIA

CASE NO.: CR 08/08

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

versus

ADOLFINA BEUKES

(HIGH COURT REVIEW CASE NO.: 1861/07)

***CORAM:* VAN NIEKERK, J et MULLER, J**

Delivered on: 2008-02-14

REVIEW JUDGMENT:

VAN NIEKERK, J:

[1] The accused in this matter was convicted on a charge of theft by the magistrate's court at Mariental. She was sentenced as follows:

"Two years imprisonment to run consecutively."

[2] When the matter served before me on review, I asked the learned trial magistrate what is meant by the words "to run consecutively" as it is not clear in relation to what the sentence is to run consecutively.

[3] In his reply he explains that he had sentenced the accused the previous day to a custodial sentence and that his intention was to order that that the latest sentence should run consecutively to the earlier sentence. There is no indication on the record that the accused had an earlier conviction, except that the accused during her address in mitigation of sentence requested the court to order that the sentence runs concurrently should it not be in the form of a fine. It is presumably in response to this request that the magistrate framed the order in the way that he did. In my view the formulation should be amended to clearly convey the intention of the learned magistrate.

[6] I therefore made the following order:

1. The conviction is confirmed.
2. The sentence is confirmed, but amended to read as follows:

2 (two) years imprisonment, to be served consecutively to any sentence of imprisonment the accused was already serving on 29 October 2007.

VAN NIEKERK, J

I agree

MULLER, J