



**CASE NO.: CR 21/2009**

**IN THE HIGH COURT OF NAMIBIA**

In the matter between:

**THE STATE**

**vs**

**RIAAN STEENKAMP**

*(HIGH COURT REVIEW CASE NO.: 221/2009)*

**CORAM: VAN NIEKERK, J et SILUNGWE, AJ**

Delivered on: 2009 March 23

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**REVIEW JUDGMENT**

**SILUNGWE, AJ** [1] In this review matter, the accused appeared before the Magistrate's Court at Rehoboth on a charge of housebreaking with intent to steal and theft of household property valued at N\$3 700-00. He pleaded guilty to the charge involving theft of property worth about N\$2000-00 and he was convicted accordingly. He was then

sentenced to five years' imprisonment, three years of which were suspended on the usual conditions.

[2] When the matter came on review, the presiding magistrate was requested to give reasons for the apparent severity of the sentence. In his response, he justifies the imposition of the sentence with reference to the seriousness and prevalence of the crime in the district; and to the fact that some stolen items were not recovered. It is noteworthy that when the prosecutor submitted to the court *a quo*, in aggravation of sentence, that not all stolen items had been recovered, there was no indication as to the value thereof. Approximately three quarters of the items stolen comprised inexpensive foodstuffs such as one 2 kilogramme packet of rice, one packet of weetbix breakfast cereal, one packet of tea leaves one bottle of chutney, four packets of spices, five packets of soup *et cetera*; and expensive electrical appliances the sum total of which consisted of: four small speakers, one Samsung remote control, one Samsung DVD player and one subwoofer. There is thus no telling whether the unrecovered items comprised some of the inexpensive food staffs only, or some of the expensive electrical appliances only, or a mixture of both inexpensive and expensive items, as no evidence was led by the State in aggravation of sentence.

[3] The personal circumstances of the accused were that he had pleaded guilty to the charge; he was a first offender aged 33 years; he was married with three children; he was employed earning N\$1 600-00 per month; and he had obtained a Grade 10 school certificate. However, the aggravating circumstances were that the crime committed was serious and prevalent in the district; and further, that not all stolen items had been recovered. The interests of society are that serious crimes, especially prevalent ones, should in general, be punished adequately.

[4] When all the circumstances referred to in the preceding paragraph are taken into account, the severity of five years custodial punishment leaves me with a sense of shock and thus deserves to be disturbed.

[5] In the premises, I make the following order:

1. The conviction is confirmed.
2. The sentence of five years' imprisonment is set aside, and replaced by the following sentence:
  - 2.1 Three years' imprisonment, eighteen months of which are suspended for five years on condition that the offender is not convicted of housebreaking with intent to steal and theft, or of theft *per se* committed during the period of suspension.
  - 2.2 The operative sentence of eighteen months is effective from January 28, 2009, when the initial sentence was passed.

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**SILUNGWE, AJ**

**I agree**

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**VAN NIEKERK, J**

