



CASE NO.: CR 66/2010

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

versus

PAULUS UUYUMBA

[HIGH COURT REVIEW CASE NO.: 545/2010]

CORAM: PARKER, J et SIBOLEKA, J

Delivered on: 2010 OCTOBER 06

REVIEW JUDGMENT

SIBOLEKA, J.:

[1] This is a special review matter referred to this Court in terms of Section 304(4) of Act 51/77. The accused appeared before the District Magistrate Court, Otjiwarongo on the charge of driving without a drivers

licence in contravention of section 82(1)(a) read with Section 31(2) of Act 22 of 1999. After questioning the accused in terms of section 112(1)(b) of Act 51/77, the learned Magistrate convicted the accused. The conviction is in order and will be confirmed. He was sentenced as follows:

“Accused sentenced to a fine of N\$1.200,00 (One Thousand Two Hundred Namibian Dollars), half of which suspended for six (6) months or in default of payment, 12 (twelve) months imprisonment half of which is suspended for (6) six months on condition he does not repeat this offence within the period of suspension.”

On realizing that he did not set out the condition of suspension properly, the learned Magistrate has requested that the above sentence be changed to read as follows:

“Accused sentenced to a fine of N\$1200 or 12 months imprisonment of which N\$600,00 and 6 months is suspended for a period of 3 years on condition that accused is not found guilty of the offence of contravening section 82(1)(a) read with Section 31(2) of Act 22 of 1999 ie. Driving without a licence, committed during the period of suspension.”

I agree with the suggestion and would make the following order:

The conviction is confirmed and the sentence imposed by the Magistrate is set aside and is substituted with the following:

A fine of N\$1,200.00 or 12 months imprisonment of which N\$600,00 or 6 months are suspended for 3 years on condition that the accused is not found guilty of the offence of contravening Section 82(1), read with Section 31(2), of Act 22/99, committed during the period of suspension.

The sentence is antedated to 2 March 2010.

SIBOLEKA, J

I agree.

PARKER, J