



CASE NO.: CR 3/2012

"Not Reportable"

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

VS

MANFRED HARAEB

(HIGH COURT REVIEW CASE NO.: 2417/2011)

CORAM: **PARKER, J et, UNENGU, AJ**

Delivered on: 2012 February 7

REVIEW JUDGMENT

PARKER, J [1] The accused pleaded guilty to the offence of assault with intent to do grievous bodily harm. He was convicted on his own plea of guilty and sentenced accordingly.

[2] The formulation of the condition is wrong because the suspension is subjected to the condition that both the commission of the offence and the

accused's conviction should be within the suspended period of three years. A condition of suspension should not be formulated in such a way as to include both the commission of the offence and the conviction of the accused in the period of suspension because, for all manner of reasons, it can happen that the conviction only follows after the period of suspension has expired. If that happens, the suspended imprisonment cannot be put into operation because the accused has not been convicted within the period of suspension.

[3] That being the case, the following orders are made:

- (1) The conviction and sentence are confirmed.
- (2) The condition of suspension is deleted and the following condition is substituted therefor:

A fine of N\$1 500-00 (one thousand five hundred Namibia Dollars) or eight (8) months' imprisonment wholly suspended for three (3) years on condition that the accused is not convicted of assault committed during the period of suspension.

PARKER, J

I agree.

UNENGU, AJ