



CASE NO.: CR 02/2008

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

and

GIDEON BENEDICTUS

(HIGH COURT REVIEW CASE NO.: 1830/2007]

CORAM: MULLER, J et PARKER, J

Delivered on: 21 January 2008

REVIEW JUDGMENT

MULLER, J.: [1] The accused, aged 21 years, was convicted on his plea of guilty of theft of goods to the value of N\$1150.00 and sentenced to pay a fine of N\$1000 of 16 months imprisonment.

[2] I queried the learned magistrate on the severity of the sentence, the disparity between the fine and period of imprisonment and asked whether the accused was imprisoned or not. I received the magistrate's

response and am satisfied with his reply with regard to the sentence he imposed and that all relevant factors were considered. The magistrate conceded that there is a huge disparity between the fine and the period of imprisonment, if the fine is not paid. However, I am informed that the accused did pay the fine and was not imprisoned.

[3] With regard to the disparity between the amount of the fine and the period of imprisonment the magistrate suggested that the period be amended to 6 months imprisonment instead of 16 months. I find this a sensible suggestion and shall order such a change to the sentence.

[4] In the result the accused's sentence imposed in the Magistrate's Court Oshakati on 28 August 2007 is amended by substituting the period of imprisonment of 16 months with 6 months. The formulation of the sentence now reads:

“A fine of N\$1000 or in default of payment a period of imprisonment of 6 months.”

MULLER, J

I agree

PARKER, J