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## Poacher's 30-year jail term cut on appeal

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by [Werner Menges](#)

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Willem Peter

**THE 30-year prison term of a cattle poacher, who successfully challenged the constitutionality of the severe sentences which were prescribed for stock thieves in Namibia, has been reduced to 12 years by the Supreme Court.**

The prescribed sentence of 30 years' imprisonment received by repeat offender Willem Peter in December 2009 on a charge of stock theft involving one cow was, on the face of it, "startlingly inappropriate", acting judge of appeal Theo Frank remarked in a judgement handed down in the Supreme Court on Monday.

However, that was the compulsory sentence which the Stock Theft Act stipulated for a repeat offender with a previous stock theft conviction at that stage, before the High Court declared the prescribed sentence unconstitutional in 2011, Frank noted.

The Supreme Court in 2017 upheld the High Court's judgement that some of the sentences prescribed by the Stock Theft Act were in conflict with Namibia's Constitution.

Peter was one of the two convicted livestock thieves who challenged the constitutionality of the prescribed sentences, arguing that the minimum sentences violated the Constitution's prohibition of cruel, inhuman or degrading punishment and the right to equality.

After winning that case, though, Peter remained in prison serving the 30-year jail term which he received at the end of a trial in the Windhoek High Court in December 2009.

His appeal against his sentence finally made its way to the Supreme Court this year. The appeal was heard on Thursday last week – and four days later, the court delivered its decision.

Peter was convicted of stealing one cow, valued at N\$3 200, which had been shot during a poaching excursion at a farm between Outjo and Kamanjab in December 2006.

The poaching incident also claimed the life of a professional hunter who was shot by one of the poachers after he had found the cow they had slaughtered on the back of the bakkie they used as transport.

Peter and three co-accused claimed during their trial that another accused, who died following their arrest, was responsible for the killing of the hunter.

Having also been convicted of stock theft in 1997, Peter was sentenced as a repeat offender and was given a 30-year prison term as prescribed by the Stock Theft Act at that stage.

Frank remarked in the appeal judgement that stock theft remains a public scourge in Namibia, where the country's size and sparse population make it impossible to constantly guard livestock.

He said Peter not only had a previous conviction for stock theft, but also earlier convictions on charges of housebreaking, theft and assault with the intent to do grievous bodily harm.

That criminal record, the judge commented, showed Peter's previous brushes with the law did not put him off further criminal behaviour, and showed he was less open to rehabilitation than other offenders without such a criminal record.

He also recounted that Peter played a leading role in the theft of the cow, having recruited three of his co-accused to join him in committing the crime. That was aggravating, Frank said.

Taking into account that Peter also spent three years in custody before he was found guilty and sentenced, a sentence of 12 years' imprisonment, backdated to December 2009, would in his view be appropriate, Frank said.

Chief justice Peter Shivute and appeal judge Dave Smuts agreed with Frank's judgement.

Legal counsel Natasha Bassingthwaighe represented Peter in the appeal.

The state was represented by Erick Moyo.