

Filed By: **Henry Shimutwikeni & Co Inc**
Legal Practitioners for the Defendant
66 C/O John Meinert & Hosea Kutako Streets
Windhoek

DEFENDANT'S WITNESS STATEMENT
IN THE HIGH COURT OF NAMIBIA
(Main Division)

CASE NUMBER: HC-MD-CIV-ACT-OTH-2022/02957

In the matter between:

SHAPWA TANGENI KANYAMA **1ST PLAINTIFF**
BEATA NDAENDELAO SHITEKETA KANYAMA **2ND PLAINTIFF**

and

MATHILDE MUTALENI KATOSHE KADHIKWA **DEFENDANT**

BE PLEASED TO TAKE NOTICE THAT, the Defendant intends to call the undersigned **MATILDA MUTALENI KATOSHE KADHIKWA** to testify at the hearing of this matter. A statement of her evidence appears hereunder:

I, the undersigned

MATILDA MUTALENI KATOSHE KADHIKWA

1. Make the following statement:

1.1. I am an adult female residing at Onamungundo Village, Oshikoto Region, Republic of Namibia;

1.2. I am a retired registered nurse with specialisation in Critical Nursing Care. Before my retirement, I was a nurse for more than 30 years – I served as a nurse at the Oshakati State Hospital, Windhoek Central Hospital and the Ministry of Correctional Service as the head of the nursing service.

2. I am personally acquainted with the facts set out hereunder and the facts contained herein are true and correct, unless the context indicates otherwise, or it is otherwise stated.

3. I am advised that I am required to provide a statement of my evidence in chief for the hearing of this matter. I deliver this statement to this Honourable Court on my own behalf as the Defendant, being duly competent to do so.

4. I reserve my rights to clarify, supplement and/or vary the statements herein, and to tender such further evidence as may be necessary or required at trial, and I hereby state the following:

5. During or about May 2022, on a WhatsApp group named, "2024 Presidential" I, recorded and sent an audio message in Oshiwambo in response to an audio message sent by one of the other group members. Both, the audio messages, the one that I was responding to and the one that I recorded were in respect to a certain wedding ceremony which was held in the "North". I have been informed that the audio message has been translated to English by a Sworn Translator, and a copy of the sworn translation has been annexed hereto as "**MKK1**".

6. The statements I made in the audio message in question were in no way malicious, nor were they made with the intention to defame or injure the reputation and good name of any individual. My audio message was simply recorded and sent for me to add my fair public comment on the topic and to contribute to the discussion that was being had on the said WhatsApp group at that time.

7. It is important to note, that in the said audio message I, at no point mentioned any individual's name, more specifically I, did not mention either one of the Plaintiffs'

names. Further, I did not record the audio message to portray the Plaintiffs as unscrupulous persons, with low morals or to injure their reputations.

8. Therefore, I deny the allegations put forth by the Plaintiffs in their Particulars of Claim that I made the audio message:

8.1. with the intention to defame, injure and/or tarnish the 1st Plaintiff's reputation and dignity;

8.2. to imply that the 1st Plaintiff is a corrupt businessman, that he commits criminal acts and that he embezzled public funds for his own benefit;

8.3. with intent and malice to lower and undermine the 1st Plaintiff's good name, fame, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society.

9. I, further, deny that the audio message that I made is defamatory, wrongful and injurious towards the 2nd Plaintiff's name, dignity, fame, credit or reputation in the eyes of reasonable persons of ordinary intelligence or right-thinking members of society.

10. I, specifically deny, that knowledgeable persons would have heard the audio message and thought of the 2nd Plaintiff and interpreted the audio message to mean that I was implying that the 2nd Plaintiff is married to a man who is dishonest, a corrupt businessman, a man who commits criminal acts and embezzles public funds for his own benefit.

11. I am, of the belief that if the 1st Plaintiff's good name and dignity were defamed, his reputation injured in the minds of reasonable persons of ordinary intelligence or right-thinking members of society, then the 1st Plaintiff would not have been in line to be awarded tenders for the supply and delivery of goods and services by the Central Procurement Board of Namibia (CPBN) to State hospitals. As reasonable persons of ordinary intelligence or right-thinking members of society including members of the CPBN would be of the view that the 1st Plaintiff has lower dignity and a bad reputation and would, therefore, not want to be associated with him.

12. I am, further of the belief that if the 1st Plaintiff's was considered as a dishonest man, if his good name, fame, credit, reputation was undermined in the minds of reasonable persons of ordinary intelligence or right-thinking members of society, then the 1st Plaintiff would not have been in line to be awarded tenders for the supply and delivery of goods and services by the Central Procurement Board of Namibia (CPBN) to State hospitals. As reasonable persons of ordinary intelligence or right-thinking members of society including members of the CPBN would be of the view that the 1st Plaintiff is a dishonest man, is a corrupt businessman, commits criminal acts, embezzles public funds for his own benefit, is infamous, has no credibility and has a low reputation and would have disqualified him from being awarded the tenders.

13. I am of the view that the 2nd Plaintiff's name, dignity, fame, credit or reputation was not defamed nor injured by myself. This is, because reasonable persons of ordinary intelligence or right-thinking members of society would not think that the 2nd Plaintiff is married to a man who is dishonest, a corrupt businessman, a man who commits criminal acts and embezzles public funds for his own benefit.

14. I am further of the view that, reasonable persons of ordinary intelligence or right-thinking members of society know that the 1st Plaintiff is an honest, incorruptible business, he does not commit criminal acts and does not embezzle public funds for his own benefit. As the 1st Plaintiff is in the lead to be awarded tenders for the supply and delivery of goods and services to the Ministry of Health and Social Services. This is an indication that the 1st Plaintiff is an honest, trustworthy businessman with an impeccable business track record.

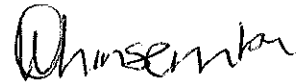
15. The statements that I made in the audio pertain to a public discussion about the states and its procurement processes. As a former civil servant employed in the health sector, I was disappointed by how the Ministry of Health and Social Services procured medical equipment and pharmaceutical products as it had a direct impact on how I did my job. There were times when the medical equipment that were procured were not enough to cater to the needs of the patients and were not effective.

16. The government through the Ministry of Health and Social Services spent a lot of money procuring medical equipment and pharmaceutical products, and in my opinion, the services rendered by the procuring agents is not satisfactory.

17. The facts contained in this statement are true and correct to the best of my knowledge and recollection of events relating to this matter.

18. I reserve the right to refer to and prove other documents as discovered or made available by the Parties.

DATED and SIGNED at WINDHOEK on this 7th day of AUGUST 2023.



MATHILDE MUTALENI KATOSHE KADHIKWA

AFFIDAVIT

I, the undersigned

Justus Kashindi Ausiku

do hereby make oath and state:

1. I am an adult Namibia male, presently residing at Erf 610, Nokeng Street, Auasblich, Windhoek, Republic of Namibia and I am a high court sworn translator.
2. The facts deposed to herein are within my personal knowledge except where the contrary is indicated or it appears otherwise from the contents hereof.
3. The purpose of this affidavit is to confirm that I am a High Court Sworn Translator in English and Oshiwambo languages and that I have translated the attached document to the best of my ability and regard this translation as a true reflection of the source texts from Oshiwambo into English.
4. I was enrolled by the Registrar of the High Court on 30th Day of June 2003 and a certified copy of my Certificate is annexed hereto, Case No. (P) A 129/2003.

Justus Kashindi Ausiku

JUSTUS KASHINDI AUSIKU

Thus sworn and signed before me at **Windhoek** on this **19th** day of **October 2022**, the deponent having acknowledged that he knows and understands the contents of this affidavit and that he has no objection to taking the prescribed oath, and that he regards same as binding upon his conscience. I certify furthermore that the Deponent in my presence uttered the following words: "The contents of this Affidavit are true and correct, so help me God".

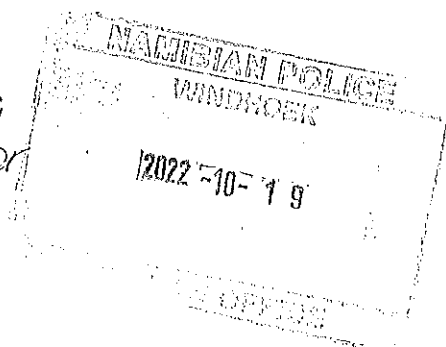
Rosalia Shuedeni

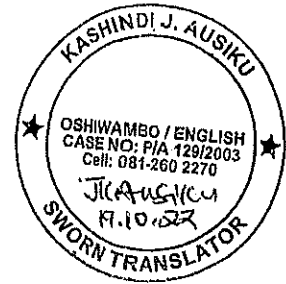
COMMISSIONER OF OATHS

NAME: Rosalia Shuedeni

OCCUPATION: warrant officer

ADDRESS: Klein Luppe
police mobile





AUDIOS COMBINED 16 OCTOBER 2022

AUDIO 1 Mr. Kamanyanga

1. Yeah, let me come to the man's audio who was doing the talking. I think he mentioned the name of Mr. Johnny, he also is likely to have participated in that conversations. You can't really call it a debate but what should it be called? The conversation was about the wedding of the man who got married recently. Yeah, the man as he spoke about this audio appears to suggest there are some people who are denying to have participated in the conversation or they don't want to be linked to this matter.
2. No, I also participated in that. Yeah, I was one of the people who were discussing, saying that if that person operates like that then he is wrong. Yes, meaning that he hosted a wedding of 10 million while at the same time he is the person who was awarded a tender to procure medical supplies for hospitals. We were saying, me, in particular, said we used to go to hospitals, but in actual fact, you will not find some of the medicines or you can't get injection needles and syringes. You are being told to go and look for it at pharmacies. You go and look for it and if you find it at the pharmacy, it will not be administered there, you have to take it with you to the hospital and get injected. This is the truth, I swear to God, it is happening in hospitals. Ironically, there is a person who was given the responsibility to provide medical supplies and all other things, including injections that are also considered part of medications. There are no medicines in hospitals, but in private pharmacies, there is no medicine that is not available, all medications are in stock.
3. Yeah, it was allegedly said that he is one of the persons who are taking part in private businesses. It does not matter whether they swindle each other as they do transactions with the state in order for hospitals to have medicine. He too is supposed to inform newspapers and the media in order for us to be aware that the man has been complaining about some government weaknesses. But if we can only hear that there are no medicines in hospitals and they are only available at pharmacies while there is a young man hosting a wedding of N\$10 million and he owns an expensive house in Windhoek, which is bigger than the houses of people who are older than him, people who worked for 20 years and they are educated people too. Oh! What do you expect people to say? What should people say? No, people should express themselves, people are free. If they are to be sued let it be, that is their habit of suing people.

Ooh! Mr. Namandje is accustomed to that, to have people sued. Is he not the one who made Hishoono Pastor get sued? Oh! Fellow countrymen why are you scared? Being sued is just like being killed, if you are sued it is just like being killed by someone. Namandje should just kill everybody on earth, yeah, perhaps it is his job, perhaps, it is his job to kill people. Yeah, he should also control himself because he is also a human being living amongst people, he has a life just like other people. He also will die one of the days, why can't he advise people to say fellow human being... you are telling people nonsensical things, threatening people, uh!

JICA
PSH



AUDIO 2 MR KAMANYANGA

1. Eish! There are those who are suing people. Those who spent 10 million on a wedding or on whatever? Mr. Amushelelo has now spoken, we will see if they will also sue him, or were they just contemptuous of the woman, the one that they wanted to sue here? Amushelelo has clearly spoken about them. He has clearly spoken about it including the tender issue, that one of the medical supplies and the vehicles that were bought as well as the wedding in particular. And he also said he is ready if they want to sue him. We will see now. And if they can't do it what would be the reason? They were ready to sue a person who merely expressed a view on the wedding on social media. Now there is a person who is ready and waiting to be sued. Let us wait and see what is going to happen or were they just contemptuous of the woman? Those people of the wedding that took place in Ondonga. They swindled public funds, then they hosted a wedding of 10 million and bought luxurious vehicles. Yeah, let them respond we are just waiting to hear.

AUDIO 3 MR ERASTUS NEPAKA

1. Alright! Mr. Kenedy, these people are the one, I found that audio after the wedding and I said to myself, oh meaning that the people who were asking who will suck a person that is not circumcised? Meaning this is the person who got married here? Meaning they started a long time ago to make their movies. I also heard about the push gift, when a Mercedes Benz worth probably a million or whatever amount it was worth it, and the baby pram that is said to cost thousands of dollars. I did not know from which area the person came. I only came to hear later that the person who is getting married is the lady who was given a gift of a Mercedes plus a baby pram that costs that much. I was also not aware of the area he came from. I only came to learn that he is a fellow resident of Oniipa where I came from. But they are saying he only came to settle there from somewhere. People were asking how come I don't know a fellow Oniipa resident. I did not know it was him.
2. It appears as if all those things belong to him, they have been swimming in money for a long time, Eish, they have been swimming in money for too long. Even that house in Windhoek which was talked so much about. It also appeared on social media. If you listened to what people were describing it. In fact, it appears exactly as it was described. The person who talked about it, it came as he described it, so all those things which Sisa Namandje is suing us for, Sisa is suing us but we are talking about things that we have seen on social media and done by the owners who are being suspected. And for those people that are being suspected, it is not us who are accusing them, even if we are accusing them we do so based on the things that they do in public. Thank you.

JICA
RKH

AUDIO 4 | MR. KENEDY IILONGA

1. What I want to be done is for the Minister himself to come on the radio and talk about who exactly is responsible for procuring medical supplies for hospitals in Namibia. Who placed orders for them to be received in Namibia? In addition to the person who procures it for Namibia, who else is responsible for distributing them to hospitals? And when they are being ordered is the money paid by the government or the person who is procuring them from abroad is the one to make payment? This is the information that I need to get. And how many millions were that tender for procuring medical supplies from abroad?
Mhh? And those medical supplies which formed part of this tender, when was it awarded? How many million were involved and the one who won it? When was it awarded to him? These are the things that I need to hear from the minister or the PS



JICA
JICA

AUDIOS COMBINED 16 OCTOBER 2022

AUDIO 1 Tate Kamanyanga

1. Iyaa, handiyaali, mokaudio komusamane, tapopi ngaa nee ondi wete kutya okwa tumbula ngaa nee edhina lyomusamane Johny, kutya pamwe naye okwa li ngaa ta kuthombinga esiku lyepopyo, ito ti odebate ototi shike ano? Lyaantu mba kwali taa kuthombinga shinasha nohango yomusamane ngu a hokana omasiku nga. Omusamane a fa ewete kutya opena ngaa, nakupopya nee okaudio ha, ewete mo kutya mutu opwa fa pena yamwe taya ipatana nenge inaaya kutha ombinga moshinima sho.
2. Aaee ngame nangame omo ndali okwali te kuthombinga. EEe ongaye ngaa ndali gumwe gwomaantu mbono tatu popi ngaa nee kutya ngeenge, omuntu osho nee ha longo ngawo mboli okwa puka. Eee okutya eno, ohango yoomiliona omulongo, ye nani oye a pakelwa oshipakelo shokukonga omiti dhi ye miipangelo. Tse okwali nee, unene ngaashi ngaye okwa li tandi popi kutya miipangelo ohatu yi ko, ndee pau shili oho vuifu okwaadha kaamuna nando omiti dhimwe, nenge owenda kaayimo, taku ti inda kofaamasi wu keyi konge. To keyi konge, ndee kofaamasi hako to yi wendwa, oto yi eta koshipangelo, to ya wu yi wendwe koshipangelo. Shono oshili shopau Kalunga sho, omo shi li miipangelo. Omanga nani nee punomuntu ngweena oshinakugwanithwa shokukongomiti niinima ayihe mbyono yeewenda omulti ngaa nee. Ndee omiti miipangelo ihadhi kala mo, kadhimo maara meefaamasi dhopaumwene aae ito adha omuti kaagumo, adhihe omo dhili.
3. Iyaa ye ota popiwa nee kutya, naye oye gumwe gwomaakuthimbinga yiinima yopaumwene. Kutya nee pamwe shinasha nokufutathana nepangelo opo omiti dhi thike miipangelo, oya nyokomathana? Naye ona kale ngaa heya kiifo, nokiikundaneki tu uve wo kutya omusamane oha tanguna ngaa shili kutya epangelo olina po uuunkundi. Maara ngeenge ohatu uvu owala kutya omiti odhili keefaamasi nani opena owala kamatyona, enohango tayi dhana yinoomiliona omulongo, negumbo lyondilo lili koVendukaa, lyivule nomagumbo gaantu mba ya longa ye mu vulithe, ya longa nando oomvula omilongo mbali nayo aalongelwe ngaa. Oh! Aantu naatye ngiini, aantu naatye ngiini? Aaye aantu naapopye aantu oya mangeluka. Ngeenge otaya suuwingwa nasuwingwaala, shono oshawo aasuwingi yaantu. Ooh omusamane Namandje okwe shiika, kusuwingiitha aantu. NaHishoona pastor, ndishi oye ngaa emu suwina. OH! yalumentu yaKalunga ano oshike hamutila. Okusuwingwa okwa faala omuntu wa dhipagwa, ngele owa suwina owa fa owala omuntu eku dhipaga. Namandje na dhipage owala aantu ayehe kombanda yevi, iyaa oyo ilonga ye mutu, mutu oyo ilonga ye yokudhipaga aantu. Ehee ona kale wo ha kondolola naye okuli wo muuntu, mu, munaantu, okunomwenyo, aala ngaashi aantu ooyakwawo. Naye onakasa aala sikulimwe lyomomasiku, why ihaa gunu aantu teya lombwele kutya, yakwetu nee man, ah otamu lombwele aantu iipolopolo tamu tilitha ashike aantu, aagh.
4. AUDIO 2 TATE KAMANYANGA
5. 1. Ayi ! vo naava, ava vokusuwina aanhu ava, vomafundula a lyeemiliona omulongo ilo omwati ngaipi? Omusamane Amushelelo okwa popya nee, eh, otatu pwiikine nee ngeenge otave mu suwina ngoo, ilo okwa li va dina aike meme, owu kwa li va hala okusuwina apa walye. Amushelelo okwa popya nee evuukilla nawa nawa. A popyapo nawa nawa nopotendela oyo, yokumbesitela omiti oyo ndee, nomatuwa oo a landwaapo ndee, nohango eshi ukilla yemwene ndee okwa ti noho okuli olwedi, okuli olwedi, ngeenge otaa dulu okufikama vati ve mu suwinge, ohatu pwiikine nee. Nongeenge itave shi ningi mbela omolwashike? Vo okwali va fikama omuntu a popya ashike kepandja shina sha nohango. Paife opena nee ou a fikama eli olwedi [ready] a teelela okusuwina. Natu pwiikenepo nee hano kutya otapa tiwa ngahelipi, ilo okwa li ashike va dina omukulukadi? Ovanhu ovo vohango eyi yali ya hombola opo mOndongaamo. Ovo va nyokoma iimaliwa yaakwashwana, ndee taaningi ohango yoten miliona va landa omatuwoondilo. Eee naanyamukuleko ashike fye tu pwiikine nee.

AUDIO 3 TATE ERASTUS NEPAKA

1. Iyaa! Tate Kenedy aantu oyo, ngaye okaudio hono onde ka mono nee konima yohango kutya, Oh tashi ti nani mba yokutyomuntwoo ota yamwa kulye? Inaa kenkwa? tashi ti oye ngaa nguno nani a hokanwa mpano? Tashi ti eemuuvi dhawo oya zi ngaa nokudhi dhana nale? Ngaye noshiima shi shoka, shi shoo shoka push gifta sho a landelwa Eshete mutu lili pomliliona nenge olili pwiingapyaano? Noka, noka temba kokanona taku tiwa okena omayovi gangapi ngapi. Kandali ndishi kutya ogwaapeni nosho, nosho. Osho, ngaa nee, ndeya ndi kuuve taku ti aaye omuntu ngu ta hokanwa oye omukadhona ngu a pelwe okashete, Iyaa nokatamba kokanona sho kaka valwa taka landwa ilmaliwa komayovi ge thike mpa. Iyaa kandali ndishi noho kutya ogwaa peni. Osho ngaa nee nde kuuva taku ti naye, nani omuNiipa omukwetu, ndee otaku tiwa mOniipa okwe ya mo. Oye ya mo okutya, otaku tiwa kutya omuNiipa omukwetu kandi mu shi. Kandali ndishi kutya oye kaa.

2. Nani iinima ayihe mbyono, oye owala tashi ti, oo, kombanda yiilmaliwa yoyene, oya kala ko ethimbo, ee kombanda yiilmaliwa oya kala ko ethimbo. Negumbo ndyono tali popiwa lyokoVenduka shili, ndyono, olya popilwe ngaa kOngoma huno, nando omuntu oto pulakene ngaa egumbo tali popiwa, ndele, olye keya ngaashi lili, shili ngawo. Omuntu ngu kwall eli popya, olye, ya ashike ngaashi lili, yaa ano iinima ayihe mbyono aantu sho tatu suwingwa kuSisa Namandje shili, Sisa otetu suwinga maara otetu suwinga kilinima tatu yi mono kosocial media ya ningwa kooyene mba taa fofodholwa. Naamba taa fofodhololwa ando otse tatu ya lundile, otatu ya lundile, kutya otatu ya lundile shi li muukwatya wiinima mbi taa, iinima mbi haaya ningi komeho gaantu. Iyaalo.

AUDIO 4 TATE KENEDY IILONGA

1. Ngaye oshima shi nda hala, onda hala ngaa minister yemwene eye ngeno koradio, a popye naanaa kutya omiti dhomiipangelo yaNamibia ohadhi mbestelwaa kulye lela lela lela lela. Ngu hedhi mbestele opo dhiye moNamibia? Nongele nee ngwee dhi mbestele dhiye moNamibiaa ngu hedhi topolele iipangelo olye? Naashi nee hadhi mbestelwaa ohadhi mbestelwa ilmaliwa hayi futwa kepangelo ilo ngu naku pewa nee otendela oye mwene hambestele omiti kondje yoshilongo.? Ngaye owo uyelele nda hala okuuva mbo. Notendela nee ndjono sho yokutendela omiti kondje yoshilongo oya li yeemiliona ngapi ano? MH? noo nomiti nee ndhono nee mu otendela ndjono naku yi pewa okwe yi pewa uunake? Otendela oya li yoomiliona ngapi nana ku yi pewa okwe yi pewa uunake? Ngaye oyo iinima ndahala okuuva mbyo ngeno tayi zi nee kuminista yemwene ilo kuPS.

TEA
m/h

CASE NO.: (P) A 129/2003

REPUBLIC OF NAMIBIA



IN THE HIGH COURT OF NAMIBIA

WINDHOEK, MONDAY, THE 30TH DAY OF JUNE 2003

BEFORE THE HONOURABLE MR JUSTICE MTAMBANENGWE, ACTING

IT APPEARING THAT

certify that this document is a true copy of the original document filed on record in this office.

JUSTUS KASHINDI AUSIKU

is duly qualified to practice and to be admitted as a Sworn Translator of this Court in the English and Oshiwambo languages, it is hereby ordered that his name be enrolled as such by the proper officer.

[Signature]
Certified to be a true copy of the duplicate/original document filed on record in this office.
Registrar

BY ORDER OF COURT

[Signature]

REGISTRAR OF THE HIGH COURT

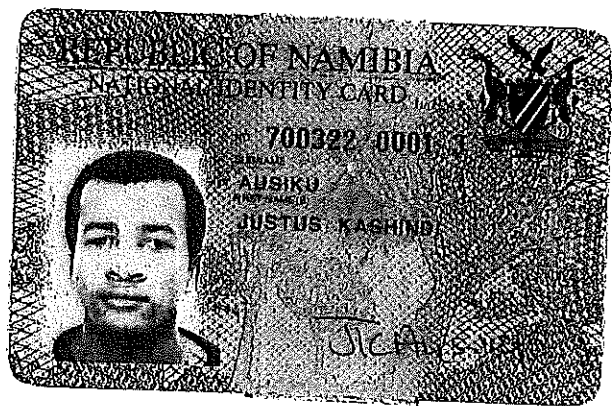
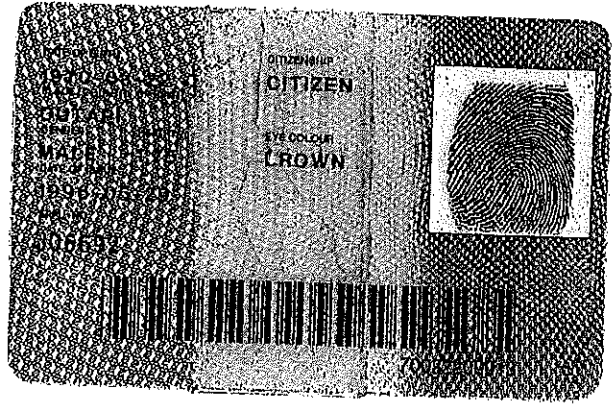
Enrolled the same day.

[Signature]

REGISTRAR OF THE HIGH COURT

PRIVATE BAG 13179
WINDHOEK
TEL: 061 435 3000
FAX: 061 435 3100
12 JUN 2019
OFFICE OF THE JUDICIARY
REGISTRAR HIGH COURT OF NAMIBIA


NAMIBIAN CUSTOMS & EXCISE
KLERK WINDHOEK
26 SEP 2021
CHARGE OFFICE




REPUBLIC OF NAMIBIA
MINISTRY OF HOME AFFAIRS
7 9 MAY 2022

[Handwritten Signature]
This is a copy of the original
and does not constitute
proof of any document
unless it is certified
by the original
issuing authority.

REPUBLIC OF NAMIBIA
NATIONAL IDENTITY CARD



no **580102 0050 6**



SURNAME
KADHIKWA
 FIRST NAME(S)
SAKARIA

[Signature]

NAMIBIAN POLICE
 ORIGINAL DATA
 23 JAN 2007
 CHANGE UNIT
 OSWALD



DATE OF BIRTH: **1958-01-02** CITIZENSHIP: **CITIZEN**

PLACE / COUNTRY OF BIRTH: **ONAMUNGUNDA**

SEX: **MALE** HEIGHT: **1,80** EYE COLOUR: **BROWN**

DATE OF ISSUE: **2007-01-25**

APP. NO.: **F96128**

58010200506

I certify that this document is a true reproduction
 copy of the original which was examined by me and
 that, from my observations, the original has not
 been altered in any manner.

Signature: *[Signature]*