

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO:293/09

In the matter between:

REX VERSUS

JOSEA GABRIEL MACHAVA

Date of hearing: 24 September, 2009

**Date of judgment: 24 September,
2009**

**Mrs. Attorney M. Dlamini - Director of Public Prosecution
for the Crown**

Mr. Attorney S. Magongo for the Accused

EX TEMPORE JUDGMENT

MASUKU J.

[1] The accused person is one Josea Gabriel Machava hereinafter referred to as the accused stands before me indicted on 2 counts of Contravening the Pharmacy Act.

[2] On the first count, he is charged with contravention of section 12 (1) (a) of the Pharmacy Act, it being alleged that on 5 August, 2009 at or near Matsapha in the Manzini Region, he, not being a holder of a valid licence of or permit did unlawfully possess a poison or a potentially harmful drug namely heroin weighing 834.437g, which was contained in 65 sloops and did thereby contravene the said Act.

[3] On the second count, he is alleged to have contravened section 12(1) (c) of the Pharmacy Act as amended, the allegation being that on the same date that is on 5 August, 2009 at Matsapha, in the Manzini region, he not being a holder of a written permit issued by the Minister for Health to import poison or a potentially harmful drug, namely heroin weighing 834.437g did import the said heroin which was contained in 65 sloops.

When the charges were read to the accused he indicated that he understood them and he pleaded guilty to both counts. The plea was subsequently confirmed by his

attorney as being in accordance with his instructions. The Crown accepted the plea.

[5] In consequence thereof, an agreed statement was read in to the record outlining the events that led to the present charges. After the agreed statement of facts was read out, I enquired from the accused whether he understood the same and he indicated in the positive and he further confirmed that the statement or agreed facts constitutes a true and accurate reflection of the events which led to the present charges.

[6] In the circumstances, having regard to the accused's plea of guilty, and I should mention that in particular the statement of agreed facts also included the various elements of the offences in respect of which the accused was indicted and these were carefully set out and have consequently been accepted by the accused.

In the circumstances, in the light of the accused plea of guilty to both counts and contents of the agreed statement of facts, considered *in tandem* with the documentary exhibits which were filed of the record, I am well satisfied that the accused

plea is unequivocal, and in the circumstances, I therefore find Josea Gabriel Machava guilty of Contravening Section 12(1) (a) and Section 12(1) (c) of the Pharmacy Act of 1929 as amended.

**DELIVERED IN OPEN COURT IN MBABANE ON THIS 24th
DAY OF SEPTEMBER, 2009**