

TANZANIA / JUDGMENT

19750416 TZHC Mwanza

COURT
TZHCDECIDED
16 April 1975

Source: media.tanzlii.org · Research copy typeset by Esheria. Not court-issued or certified.

,LLJ.1J,... AT TAI'TZA Original HIGH COTJ FLT CRII.iINL LPPEJL N.O. 423 OF 1974 Original Cii:iinal Case No, 399 of 1973 of the District' Court of Goita.Difriat at Goita1oforo L.r'Lugiohana, Esci., DJ. ALfIEI?TUS LiLGESA i.iJLLLNT versus THJ. REPtThiIC.
RESPONDEITT CHARGE: Corrupt transaction wit]:i agnt c/s 3 (1) of the Prevention of Corruption Act 16/71 JJ1ENT LIIA, J. On 3/10/73, the Policat Scn -ororia in Gota District nounted a search for illicit lijior' conrion],y Imovm as "noshi". In the course of this' search which was ordered by tho appellant AJJBEIITUS AGES. then officer , in-charge of Sengorea P011cc Phst, :ahy hones wore raided incjuding that of the coaplainant LEI'TSIANL JUMA (p'T2) Molonsiana told the trial court that as she vie,s sleeping that night,, she hparo a loud bang at the nain door of horiouso The door was' forced een and a party' of pelicenon ontrod the house. For reasons whiCh are not clear, she v;as assault- ed and rossly onhandled, end the cm culprit appears to h've been th ttpOI1nti Do that as it 'iay, they dor,endod to' lmow the w'b,ere- shouts of her husband. She told thc that ho had one to Thisism on lousinOss. Thoreupon they 'infoacd her that she had "moshi" in her ho' e end they picked a buc'ot containing soio liquid clannng that tha.t.was ¶ioshi'. Despite her Drotosts that wat ,ias in' tho 'bucket e8 only water, th bi,,'ckot was sizeJ an 1 she was ordered tà caio iith thoi 'to the police station. .o they roro wolkin, to thc polic statien:-the appellant' signalled to her and aLed' her "what she' had to say". He whisporod to her that if she gavo hin Shs. 100/, ho could. :havo"her released. She told' hmn that she did not have thQ ncmey.then, but that if he released 1cr, she ;would brii.g the raoney thO' followinr norning. On thi 'undortanding the, appellant 'allOwed hOr. 'to return hue the night, but ho kept the bucket seized at her hone.' Eal thO following :oining she travellàd 'to 'Bus isi to sOc he husband so that ho could give hdr the nciacy dd:'aandod by the appellant. She did n.t oo hi. as he had 'trav011od to another pJaOe on business. She returned hone and so::ehow :lanaged to get ,thc 5he ioo/' and took it to the appellant. On Oo'oiing her 'the. appo'llant changed his :ind, telling her that she was too 'late and thçit in ccnooquencce he had raised his "fee to Sha. 250/=. She mplorcd hira to tcJ.co' pity' 'on hor s saying that 5110 wouL n.'t be 'able 'tp raise that encunt. Finally he gave in and reduced the amount t shs., 200/=. As she pu-s it, luckily her husband returned thot sc e night and ohio told hin what had happened and what wac re'quirocl 'to secure her 'free- don. Her husband CHARLES I ZUKA (P. .10) told, the trio 1 court 'the t he was very aumyod at this end he nqde up his nmnc,?. to travel to Mwanza 8,md report the appellant F'5 illegal donands On his,. wifO ., This ho 'did, and to the eternal credit of the office' of the RegiOnal Crifle Officer Mvianza Region, irnediato action was taken. A party of police officOrs led by1OYS 1Cb-hI3NDA (P.VT.1) was dOsiatched to Songerona in

the company of the complainant husband.. Before leaving, the party was supplied with shs.' 200/' whose notebooks and documents were noted down and 'as usual the currency notes were transferred with light reflecting powder, Then then set off for Songorera. At Songorera they stopped at the complainant's house where they handed the treated currency notes to Melonsiana. But as the appellant had warned Melonsiana not to take the money to him herself, it was arranged that her co-wife NYJD, TIZI d/o BIJHLBI (P.T1.3,) should take the money to the appellant, 'this was done after I'Tya;izi had established contact with the appellant. "Then Nysnizi left on her 'trip', she was shadowed by C.I.D. agents from Mwanza. As arranged, she successfully handed the money to, the appellant at the police station. - As soon as this was done, the police officers accordingly, introduced the two and immediately stated that they suspected him - in receiving a bribe.. Before searching him, they offered: the appellant the opportunity to search if he wished. The appellant. declined. then, after. Through 1, I0YS 111CHU1TDA asked Dototivo Yüsnî (P.1.7) to show the appellant.. The search revealed shs. 200/= in the pocket of, the appellant's official uniform. Their numbers.. were recorded and acknowledged. 'they were found to tally with the numbers recorded earlier. The appellant was then arrested and taken to Mwanza where JP CdOT bests were carried out. Those were positive. At this stage he was taken to court to answer the charge of corruption contrary to Section 3 (1) of the Prevention of Corruption Act. At his trial in the district court, the appellant told the court in his defence that he did not do anything of the sort as alleged by the prosecution witnesses. He however agreed that he ordered the search of 'Shi' t Seneca on 3/10/73 and that he personally led the search party. In the course of the search, they entered the complainant's house where they found a bucket containing water which smelt like "weshi". They therefore arrested the complainant and seized the bucket. However on arrival at Sonerena police post, he was satisfied that the bucket did not contain "nosli". He therefore ordered the release of the complainant, but warned her to report back the following day. The complainant failed to turn up on the following day i.e. 4/10/73 her co-wife P.1.3 arrived and told him that she was sent by the complainant to collect her husband but as he did not return he refused. 'During the evening of the same day at about 7 or 3p.m. P.C. STJELI (P.1.9) called at his house and asked him to come out. then he did he was immediately surrounded by police: who told him that they suspected him. They pretended to search him, but one of them introduced shs 200/' and put it on the table. He was taken to G-ei a anç. £Jan, a. In conclusion he denied that any traces of powder were found on his hands, but only in his pockets and this he said had been deposited, or taken by the police officers at the time they searched him. 'therefore: the evidence the trial judge had accepted the 'prosecution case and found that the appellant had obtained some consideration from the complainant so that he could deliver a favour

- connected' with his official duties. He. rejected the appellant's version of events, he inevitably found him guilty, , convicted and sentenced him to three years imprisonment. The appellant then lodged this appeal against that finding.
- I am satisfied that before one can accept the appellant's version of events, one must accept the existence at the time of a massive conspiracy to implicate him. This conspiracy of necessity must have involved the office of the Regional Crime Officer at Mwanza. I find this possibly non-existent. Why should responsible police officers conspire with civilian to

frame up a-cc1lcaio? If the police officorS werö capable of such a onspiracy', why shou.lJ the ceiplainant an ordinary villacr involve herself in official intrigues? I do net think there are reasonable -roimds on which one can reject the eviaenco 01 ltelonsiana that soon aiter her arrost: that night, the appellant riado appreachos to her for sono consideration to secure her 'oloaso. That following this approach chic re)ertd t her husband : ho in burn complained to T\rnnza. Ther'- can also bO no good roasoxis or rejobing'Nyo1aizi's evidence that sho, personally handod the r:ciaoy • to the appellant, although . think she should also havc.becn escd foxpo; - dor to ofioctively estahl,sn that shc hanod- the trca-ted curronoy n'tc5,. But I am satisfied: - that she, was a truthful vitness and hor cvidoncc was rightly accepted by tho trial court - - : ' • , " . - - ' ' - ' • ' - 'The apcllant stongly .irótest'od that :sts forpowder were positive on his' hands. ' . I think he nay b ±i::ht in this, for the tc:sts wore carried out the following day. Surely in the meantime ho could have lashed - br erased thol, _11 But \rhiilC it i5 possible that - some powder 'in his hkots 1. -'could have -been 'left there at the search, still 1 an satidf'ied that this was unlikely and in any cace as I have stated i;hore was no reason sugosi;ed to explain -i why ALOYS ACHU1DA and his colloaçu.es should have decided to travel 11 the way iron t•ariza -bo Soncrona soiciy for the purpose of dpositing Shs. 200/= in the appellant's pockets. For these reasons, I an satisfied that the case against the appellant was sufficiently proved in the trial court, that he solicited and aocoijtod a bribe f:rcn the ocnplainant and that ho did so in his capacity as an agent of the G-ovornn.ont his onployors. He was therefore rightly convicted snd sontoncod. Accordingly this ap'poal is disnissod. Dolivorod in Court at Mwonza this 16th day of April., 1975. i. L. MFLILL 16th April, 1975. JUDGE

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE	https://media.tanzlii.org/media/judgment/349383/source_file/94a48216b47df2af/19750416_TZHC_Mwanza.pdf
CASE PAGE	https://chat.esheria.ai/case-law/tanzania/albertus-lugesha-v-the-republic-corrupttransactionswithagent-tzhc-1975

Prepared on 12 October 2026 · Esheria