

TANZANIA / JUDGMENT

19710111 TZHC Arusha

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TZHCDECIDED
11 January 1971

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ti/I Judgment or Order on Appeal (s. 320) Criminal Form No. 33 (Approved by the High Court under Section 352 of the Criminal Procedure Code). / Summary rejection (s. 317) IN THE HIGH COURT OF TANZANIA AT ARUSHA, APPEAL JURISDICTION / CRIMINAL Appeal No. 2 of 1974D. Original Criminal Case No. 9. of the District Court of District at Lushoto before Q!W. Esq., [District Magistrate. AMIR 1 Appellant in civil (Original Accused) versus 2 3 JAN 1971 ii. DAR ES THE REPUBLIC Respondent (Original Prosecutor) CHARGE: amount: lot Count. intent to commit a larceny with felony therein c/s 294 (1) of the Penal Code Cap. 16 of the Laws. Stealing c/a 265 of the Penal Code Cap. 16 of the Law, 1 I) Kwikima, Ag. 3e The appellant was convicted of housebreaking and stealing, The monetary value of the stolen property was Shs.1100/-. He was sentenced to a total term of two years plus the statutory twenty-four strokes. He is now appealing. The appellant was first seen by the complainant's daughter in the vicinity of the scene of the crime. He then admitted having been to the complainant's house where, according to him, he found no one, The crime was discovered soon after his admitting to having visited the complainant's house, He was then sought out, traced and chased but he managed to evade capture. Sometime later the appellant turned up at Mialo Village where he indulged in a spending spree which left everyone dazzled and suspicious. His exhibitionism was reported to the relevant authorities who wasted no time to place him under custody • AU this evidence points to nothing but the appellant is guilty as the learned District Magistrate properly found. The appeal was admitted in order to rectify the error, which is mandatory for such cases P Dsm 10224112-65160m/4up

- 4S* 0 4* 0 * 2 findings of fact. The relevant order reads: "Accused to pay the unrecovered amount." With due regard to the learned District Magistrate, this order is not clear. The amount of Shs. 1000/- was not recovered, certainly. Nor were the clothes valued Shs. 100/- either. So that when the order refers to "the unrecovered amount," there is ambiguity in the word. "The unrecovered amount" could be taken without regard to the unrecovered clothes valued at Shs. 1000/-, Accordingly the mandatory compensation order is amended to read: "The accused is to pay Shs. 1100/- in compensation to the complainant." 7 Arueba u/l An. Sgd. M. A. A. (WIKIM. & J. A. (5

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