

DECIDED
1 December 2000

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JUDGMENT

In the District Court of Kwimba at Ngudu, the appellant was charged with the offence of armed robbery contrary to sections 285 and 286 of the Penal Code. On 30.10.1992 the charge was read over and explained to the appellant who pleaded guilty to the charge. He was found guilty and accordingly convicted. He was sentenced to 30 years term of imprisonment.⁴ On appeal to the High Court against conviction and sentence, the appeal was summarily rejected. The learned judge was satisfied that the appellant's plea of guilty was unequivocal. Still dissatisfied, the appellant has appealed to this Court. From his lengthy memorandum of appeal, he raises two important points. First, that his plea of guilty was equivocal and secondly, . : that the charge of armed robbery was not established. At the hearing of the appeal the appellant appeared in person. Apart from pleading to the Court to assist him in ensuring that justice is done to him according to the law he did not have anything

- 2 .. useful to add to what he had written in the memorandum of appeal. For the respondent Republic Mr. Feleshi, learned State Attorney appeared. He submitted to the effect that the appeal is devoid of any merit because the appellant unequivocally pleaded guilty. Furthermore, he stated, as regards sentence there is nothing illegal about it, the law prescribes a minimum of 30 years term of imprisonment. We agree with Mro Feleshi that this appeal is devoid of any merit. From the record it is clear that the appellant unequivocally pleaded guilty to the charge of armed robbery. On 30/01/1992, the charge was read over and explained to the appellant. When asked to plead, he pleaded in these terms: 'It is true I robbed all those things'. That was not the end of it, the facts were then set out detailing the sequence of events and the various items stolen in the course of the robbery as listed in the charge sheet. After outlining the facts the appellant responded in these words: 'I have heard all the facts stated by the P.P.O. I admit them all as being

correcto" From these facts, we are satisfied that the learned judge cannot be faulted in his decision to reject the appeal summarily. There is no doubt whatsoever that the appellant unequivocally pleaded guilty to the charge when it was read out to him, explained and the facts stated. We have no reason to doubt that he understood what was read out and explained to him. The appellant's complaint at this stage that the plea was equivocal is nothing but an afterthought. In the circumstances of the case, we think the appeal was properly rejected in terms of the provisions of section 360 (1) of the Criminal Procedure Act, 1985. Under this section it is provided to the effect that no appeal shall be allowed in the case of any accused person who has been convicted on such a plea. This case squarely falls within the purview of this section.

- 3 - As regards sentence, there is no legal issue raised about it in the memorandum of appeal. The sentence imposed is the minimum prescribed under the Minimum Sentences Act, 1972 as amended by Act No. 10 of 1989. A gun was used in the course of the robbery and so the appellant was properly sentenced for the offence of armed robbery. In the event, the appeal is dismissed in its entirety. DATED at MWANZA this 1st day of December, 2000. Ro H. KISANGA JUSTICE OF APPEAL D. Z. LUBUVA JUSTICE OF APPEAL K.S.K. LUGAKINGIRA JUSTICE OF APPEAL I certify that this is a true copy of the original. (\\... ~f-{}(,,u q fJ_, 1 M.t M\rf!AIKU'cfILE SENIOR DEPUTY REGISTRAR

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