

TANZANIA / JUDGMENT

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1 January 1976

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N THE HIGH COURT OP TANZNIIt. AT D0D0M1i APT1LATE JuRISDICTION CRThiIN.iL APPELL No • 9 OP 1978 (Oriial Criminal Case No. 209 'of 1976 of th Distct Court of Iramhp/Kiomboi at Iroriba) ERLSTOSHtNGLI.....APPELLANT versus -. TUE REPUBLIC... ! 'R.ESP0iLDNT. H1RGE: Office breaking and stealing c/s 296 of the Penal Code. ORDER QP REJECTION J. An office of the complainant primary school wásbrokon ". into and a gre-at number of things stolen. Among them were sewu vitongo text books, including a Now Testament and pencils. About a week lerating on a tip—off the house of the appellant was searched t;k the pOlice in his Own prOSCilCO and in the prosonco of Pw.3 his Lather, and two .tachors of that schol. As the rosult 4 vitcn, one load pencil, one text La book andopy of the Now Tostannt,wore found. They were all idonffiod by the two teachers and Pw.4, a pupil of that schoolt as being among the stolen things. As regards the vitongo they wore idontifioid by their colour nd the fact that they wore not socn at the corners while the text book bore t serial nribr and the New Testament a stamp impression of that school. Later in the dy the appcllantts appears to have boon found exposed in the sun in the precincts o± the house and upon being opened up it was found to contin 40 load pencils, a nathotical sot and 7 text books which wore also identified as belonging to that school. The appellant in his defence claimed ho had himself bought the things found inside his house. He attributed the stamp impression on the Now Testament and the serial nunber on thô other text bock to the tea chors in that) after the things were oizod the teachers passed at the school taking the books with them and thereby clandestinely putting on those marks. It was however the prosecution case that those marks were prsnt at the' time of search and that from there t1c things were taken straight to the police station. With rogad to the things found stuffed in the mattress the appellant said he know nothing about them. The learned resident magistrate in a detailed arid careful judgment had no doubt whatever that both the exhibits found inside the house 6nd those found concealed in the appealant's mattress wore among the i'tms stolen from that school. He fOund the a:':pollant to have failed to give a reasonable account of how hu had cone by those things and, correctly applying the doctrine of recent p.oession, came to the conclusion ho had himself stolen then. Those findings arc well supported by ovidonco and I would have no justification to fui then. C

- 2 - The a1pollant in his petition repeating what hsj said at the trial says thcro had been: a uarrol between him and one of the teachers who gavovionco, hc,-nco the latter's deSire to roven. Th3rc.is agrement ther'c had been such quarrel botwen then but th 'witncs was clear: he had not b on motivated by malice. There wEs plenty of othor CVIDOiCC and the quarrel

could not possibly have ; affected the final result. The skmtanco being the therein, I certify the appeal has been lodged without any sufficient ground of complaint and order it to be summarily rejected, P. M. JONLTILN JUDGE

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/ernest-oshingli-v-the-republic-officebreaking-tzhc-1976

Prepared on 28 October 2026 · Esheria