

TANZANIA / JUDGMENT

19771017 TZHC Mwanza1

COURT
TZHCDECIDED
17 October 1977

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~PPELL~TS JURIJDICTION l~HIGH ,:::~.~.[];?~'~' ~:RIMI!~i.l, ,,PP ~,~.L NO. 117 OF 1977 o (Orig~nl
C1c;:_rnL,al C<1S8 i'l1c-o 120 ::>f 1976 of tlv: District Court of Tarirne Oistrict ::-t 'l'nime B,:furu
J" ::, E" f~lfuko, Ese .. ; Senior J\ic1gi,;trate) V(:::rsus THE REPU}3!° -IC o o o o o o o " ,, • n o o o o "
" " o o . o " " " , o " " o o o o o o o o o o o " " o . , RSPON1JL:NT CJ-J,,.RGE: Office br'-:, 'ik:::n0 nnd
3t~,-,;ling c/s 296(-:i.) of the Pc'!nal Cock:, LUGi\KINGL<.i, 9 Jo ~ The Distr5ct C~urt of ~ar:i~ c
nviatd the nppellant of office br 1.=ukin-1 ;,_:-!d st,::~~'J -:-:1go He ~.~JiL :3 .~n-: ,~nc,2d to thr~.],;
y-_,ars' imprison,11c,rit. He was _pr=~v.i.ou~;J.y ~nplDy.,,d -:it Ut,~gi DCliry Farm i;- , whose~
office a numb,~r yf 1wx;:i.. c.i..n s \d_,r;) k ~t)t; , -1hc,n N,1thew I(i:lto (P\,:'2) 1,-.Jc:nt to work
~,1 16 April, 1976, Ct Gc,)d T~riday, he found th,;, cupboard open and m,~dicir1c,s spill~.~d on
th,:: fl:Jor, H,? also detectcci a brolc:"1 wincl~)Wo He susp,::cte:d the upDe:l " _c.,:::i: wlir:i h ~cd.
r:-C,c 11t;:,y b,,-,n di,,mi.ss,;d from the Far,-: and wc,,~t to r,-:!=")Ort -:::_-, th,; ,;:icliceu Th~ s~ 1
~: d~v K~t~ ~nd D/C Manus (PW1) arriv~d ~t the appcll~nt's house., They f,)und hi1:1 c)mine: out
h-:,lc1ing twc Jv.gs., 1 ~hen h:: saw thc-;;m he threw the b,-: s dmm nnd t. ,ck to his h.: 11s., ll:
was chas<':d and caught., In his }Ock~t t~ey found a bottl~ of m~dicine., In the two bags,
which ,~l~.o b,;,long,~d t. the r'2rm, t!,cy fcnn.d more~ medicin,~s o 1\no. i-n his h US(: t:10~.-
fnund a tarpaulin, th,,: proD ,rty of the l~Drm, ,nd the appe :... ,:c,,t' s ::::j_,:::it:ks which were
st:lin :d with t:1e m~dicine spilli:::d on th,,: of:'ic~.~ fl<.)Or.. In court tht: apoe1l,mt ch~ ~_j_-:::ci
th-c charae c1,1d stated th :t ~h0 bnas were plnnted on him by K~to. Like: tiiC:~! -criF.l.l
magistrate I find tl~wt tl-12 def,,nr:,~ was absurd. Even if K~c:) cc11-1ld ~,)~ se:~d to huvc _oLmt
~d the bags on th,~ app2IV:mt which I u,:1 c"rt.":! ,1 h.: did "lot - th,, appc-lL.1:-1t had i3till to
expla::.. n his acquisitcn of th~ tarpaulin and the st~ins in his cloth8So This h,"
never ,tt,:::,~llJi:::,d to doo H -, th~.~n must h;~v" lied nhout !Cito' s role. There was furth-2r
evidenc,2 from l(~to ,md M;:-irt:i.n Shem (P\~JJ) that the cupboard 2nd m~d~.cines w~r~ intact
when th~y closed the office on the previous d~yo The br~aking 2nd ste~ling thus took place the
night before t:1" a,pt:1.Lmt' s 2rrest., Consic.'kiring th~t silort lapse of time it is irr ~sistibl2 to
conclud~ th~t th,~ ~pp~l 1 ~t himself committed th~ acts C(;mpL~:ir:-,d of., I t:-,;rcf;:re fi d n:)
m~:ri ts in this t:1,"J;_,-,,-cl ::>.s the sentence awr1rd,2d 1:2s nlso th~2 minimum under the
l,::iwo It is uccordingly dismiss,;d in i b; ,.mtirt~ty o M'I/ANZA., 17 /10/77 0

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