

TANZANIA / JUDGMENT

19771020 TZHC Mwanza

COURT
TZHCDECIDED
20 October 1977

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IN THE HIGH COURT OF TANZANIA AT MWANZA. APPELLATE JURISDICTION HIGH COURT
CRIMINAL APPEAL NO. 85 OF 1977 Case No.38 of 1977 of the District Court of Shinyanga District
at Shinyanga before H. G. C. KA, JERU, R.M.) MOSES STEPHEN 000000.0, 000000.0.00.00.
APPELLANT (Original Accused) versus - THE REPUBLIC • 00 0 0000 00 0 • 0 0 0 0 RESPONDENT
Orinal Prosecutor) CHARGE: Escaping from Lawful custody c/s 116 of the Penal Code Cap.I Vol.I of
the Laws. J U D G M E N T MAPIGANO, J: This is an appeal against sentence The appellant
pleaded guilty to escaping from lawful custody contrary to section 116 of the Penal Code and was
convicted of that misdemeanour. The facts are that some time back he had been charged with
burglary and stealing and was admitted to bail by the district court and released He jumped the
bail and sooner or later he was spotted by a detective corporal and re-arrested. But as he was
being taken to the police station he bolted away in an endeavour to flee. He was however pursued
by the people who were around and recaptured. He was brought to court and prosecuted for his
abortive escape from the lawful custody of the detective corporal — and upon his plea of guilty he
was awarded two years imprisonment, which is the maximum custodial punishment prescribed
for the offence. He now complains that the sentence is too severe and the learned state attorney
has expressed the same view. The same with me. The appellant is a youth and a first offender and
I can see no aggravating circumstances which called for the maximum sentence. As a matter of
principle a maximum sentence should be awarded to the notorious or uncommon offender. He
has now served ten months and I think that this is enough to meet the justice of the case.
Accordingly, the sentence is reduced to such a term as will result into his immediate

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