

TANZANIA / JUDGMENT

patric andrew vs the republic

1994 tzca 53 20 march 1994

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20 March 1994

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IN THE COURT OF APPEAL OF TANZANIA AT DAR ES SALAAM (CORAM; MNZAVAS, J.A., MFALILA, J.A. And LUBUVA. J.A.) CRIMINAL APPEAL NO. 19 OF 1994 BETWEEN PATRICK ANDREW.....APPELLANT AND THE REPUBLIC.....

RESPONDENT (Appeal from "the decision of the High Court of Tanzania at Dar es Salaam" (Hapigano, J.) dated the 16th day of June, 1993 in H/Court Criminal Appeal No# 68, of 1223 JUDGEMENT OF THE COURT MFALILA, J.A. As a second appeal, this appeal against the appellant's conviction for the offence of Causing grievous harm contrary to Section 225 of the Penal Code and the sentence of five years imprisonment is wholly without merit, one which would have been summarily dismissed under the new legislation empowering this Court to do so. At the trial, the appellant entered a plea of guilty and subsequently agreed to the correctness of the facts as narrated "by the prosecutor". The facts revealed the heinous nature of the vicious attack which resulted in the complainant losing an eye. In our view nothing could be more grievous. The trial magistrate viewed the offence in the same light and sentenced the appellant to five years imprisonment. On first appeal to the High Court, that Court, (Hapigano J.) summarily rejected the appeal on conviction - under Section 360 of the Criminal Procedure Act - and the appellant had unequivocally pleaded guilty to the charge and was sentenced to five years imprisonment under Section 364 (1) (a) of the same Act on account of the seriousness of the injury inflicted on the complainant. The appellant lodged this further appeal. Section 6 (7) (a) of the Appellate Jurisdiction Act 1979 bars appeals like the present to this Court on non-legal issues including severity of sentence. As the present appeal falls within the provisions of this Section it is hereby dismissed. DATED at DAR ES SALAAM this 28th day of March 1994. N.S. WZMdB JUSTICE OF APPEAL MFILITIA * 3TICB OF ME&I D.Z. LUHJVA ' JUSTICE OF APPEAL, I certify that this is a true copy of the original' (-vi; SE^OR^IEHJTY^Ifllq^qSniflR^

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