

TANZANIA / JUDGMENT

19830830 TZHC Mbeya1 2

COURT
TZHCDECIDED
30 August 1983

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4. IN TUE HIGNI COURT 02, TANZANIA

- AT heBEY iiELLTE JURISDICTION I (libeya Registry) CRIIVIINU1 11L NO 35 OF 1983
- ORIG1NJ CRIMINAL Chi: hO. 32 OF 19 83 OF TUE DISThIOP COURT Oh? SL1 hNCh DITBICT 4T SfIAWNGA Before: W. S. MkulurLgu District Magistrate,
- (2) PATHIC LUOGa VERSUS THEIEFUBLIC.. dJi: Stealing by Public Sevant ó/ss. 270 an d 265 of the Pen1 Code. JMqAT jRiJ. The appellant.wee charged with --stealine, by public seVants. They WOtL nurs..s in bU.tabawanga Govt. IIuspiti.. It was the proSecUtionT S caSe . that on 7/2/83 they were on duty in Vfard No .104 Sophia IOosha (143) who the shift in charge of the ward oti izicted the tWo appellants to ward. 'hey did this many o be thahstoe and bring dgs for Use I n the times. For the last time they vent fot 7 v4s of penicillih and 13 tcti ccline capsules. Instead of hayi Ai ng these drags to liosha (F143) they went with them to a hotel nearby. It Vlae said they intended to sell those 1:ws in the hotel. D/t. Maurice (v/. astd them in the hotGl cho d tna as above In their Ae Pqnee they denied that they wanted li ti c dru They argued when they ened to ward 10 after taking ti rus from the store, they , found iosla X1.3) away. They could not le•ve the drugs uhattended. They ko pthh. theni they went to drink tea in a hotel which is within the hospital ama# There P tè arrested. They argued they had no plans to sell te &iis. Their defencewas rejected and they were convicted and sentenced to yes each. They appeal to thi o court. • As submitted by the leaied Council fo4 the Republic I am also at loss how the trial magistrate arrived at the fnUing that the appellants stole bi There was evdence of I\o a (4.3) that they went to take the drew fc treating the newly admitted paiets Aen they , reimed Mosha was not •.n the ward, What 4e could they o if not to take care of the dregs till they handed them to their :n charg The mere fact that they uor t into the hotel with those diugs wa ic p r6of that they intended to sell ther. 4fter aU the }otel was m~ u tLworkers fre ueate1 it. If the appellants offended the inedtcal rcuations by going hospita3 with dzugs, that was no busineSS of the criminal court. (2) the appeal. I quash the appellant's onviction, set aside the •tnces and order their iiamediate releas&. At Mbeya, F. . UNYIPA, 30th iugus', 1983

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