

TANZANIA / JUDGMENT

19770824 TZHC Dodoma2

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24 August 1977

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J/c 4 f/YJ IN TE~: HIGH COURT OF T/NZ,'Nili. LT DODOIJL \ .-· · LITE}I;.L/..TE JURI -;DICTION
;HIGH COURT cnu:±it.: :L ;,r:1 ~[;.. 1 No. 111 OF 1 977 ' · , ; CF\ ClUrHN.'L L::c-·-.;_ I, No.
112 OF 1.977 \ \ M.L. UP.i,.G.i.. DISTRICT rLGifTn.:L~E ,,,;· · ~, \ . ..PET~R 'LUGIJ~J:IJI -·PLULO
SONO • • _ ,_ CI-Ii:..RGE: Breakin~ int:, buildinc and· c01:11Ji-i;tinc; felony ·c/s 296t 1) of the Penal
Code. CHIPET.:~ 2 J. The two 2,;;nt-!l2.nts, Peter Luciani c,nd Pa.ulo Sono, were convicted by
Xonr:.co. district court of the off·.mc,:: of breaking intc- a builC:.inG 2J1d cmr1.ittj_ng a f JlonY
th"irein c/s 296 (1) of the Pen;:~,1 Codo, encl wer'~ erich sontzmcccl to three yoars inprisonnent.
They now z,,ppor:..l, cfild their r::-,J;r:,e:o.ls lvwo b:::)en cons olid.:~, t ed. Tho prns·cu tion' s
Cl'IS8 was thc.t on 16th Octo1:~)8r, 1976, ;t about 8.00 p.n. 2, sl:i:~;p belonging to Fnrkwa
Ujanaa·village was broken into and sovernl 2.rticlcs including sonps, rice, n_,_tchos and.
cici:-.rettes w:1rc stclcn tlH,rGfrcir.1. Th2.t sane night o.n alarn was raisoc1 by the nenocers of
tho villr:'ct;G. Although the ,J,l))ellci,nts wore in that saP.10 vill,r:i.,ge, th9y did not nnswor thr;
2l2.r:1. Thi:; nan1Jr: rs ,::,f -:::hG ville.ge who answered the alarn then nou,,lted :-.. search for
thr~ culprits. The search inrty follow::rl foot-prints from the scene. The foot-prints led th0n to the
houoc of the secc•nd a~~,-1ello,nt, ,C\nd in that house the s02-.rch p2.:i:ty found b0th P-
~'~:ielle.nts, and some 10 paces from th:t house Trnre found sc;:le of the s-'u.olen articles buried
in the ground. It w2l.s then c,bout 3.00 a.n. When th,:: first faj_)ellnnt w::is asl:::Gd why h;;; , ,r;s
cl ·leping in the second 2,;2cll2.nt' s house when he h2d his own house the first ;:i:~-,;,,Gllon-c
offered nn explen.sition. In their defe1le ,;, tho ::r·T1ellc:mts denied to h0,ve stolen the articles.
The first ap1):llol1·c went so far !_::...s to deny having lJ,::Gn f0und in th 0 second. appelle,nt' s
houco •. The learned district nar; i strate accept eel t].1,.; prcs0cution' s evidence and roj,....ctod
thG stories of th~ 2.3_:i)ell2,racs. On ny ovm view of tho ovj_r_,_~nce, I cnnnot say th2.t he, orr~d
in doinc; so. The e,;)l)ellants sl,.,1,.;ccsted no reason,. nor can I find nny, · why their fellow
vill2.cr)rs would wish to· frano thoi:1. Indeed, the prosecution's evidence is sup ·orted by the
e..efonc o wi tnessc:.. In ny view, the circu:~ te:,ntial r~viclenc e irresistibly pointed to the 2-
ppellan·cs ~s tha culprits. The sentencus o,,re the statutory ninina. 011 thsse grcunc:1..s I ngroe
with the learned, ato.te o.ttorne:- th..7. t thG convj.cti:~ns nust bG uphold.. 2 In th<:J r3sul t I
clisniss th G ::,p:,?eals in th sir cmtyoty ~ .. ' Deli vorecl in cpen Court at Dcdor_1a this 24th clew
of August, 197_7. , , ; ·~\ . _.,: .1..... -_,' , .. /l -!,· i . J. l t I , ,

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Prepared on 13 October 2026 · Esheria