

THE STATE
versus
TEDIUS MUZANENHAMO
and
TAURAI HOGO

HIGH COURT OF ZIMBABWE
HUNGWE J
HARARE, 10 April 2013

CRIMINAL REVIEW

HUNGWE J: On 27 February 2012 I note to the Provincial Magistrate the following terms:

“The four accused persons appeared before the learned trial magistrate on February 2009 charged with contravening section 131 of the Criminal Procedure and Evidence Act, [*Cap 9:07*] in that he broke and entered two different business premises on separate dates and stole there from. The record shows that initially, of the five accused, the first four admitted their guilt upon arraignment. The letter ‘G’ appears against each of them. The fifth accused has ‘N.G’ against his number for both counts.

It appears the letter “N” was added before “G” for both counts in respect of accused 3, and 4 in a subsequent occasion since the colour of the ink is different from the general ink used on 3 February.

The record also shows that when essential elements were subsequently put in respecting both counts the Learned Trial Magistrate entered globular answers thus “A1-4 yes.”

There is no indication as to what happened to accused 5. The record shows that on 3 February 2009 the four accused persons were convicted on both counts initially charged. They gave their mitigation on the same date.

The charge sheet reflects that on 9 March 2009 only accused 1 and 3 appeared before the same learned trial magistrate for sentences. There is no explanation as to what happened to accused 2,4 and 5.

As for the sentence, they were each sentenced to 18 months imprisonment without anything suspended although they both appear to be first offenders. May the learned Magistrate comment?”

He replied thus;

“The trial magistrate who dealt with the above two cases left service on 18 May 2010. His whereabouts are not known to us hence we are returning the first record to you without the trial magistrate’s comments.

The same magistrate dealt with the second case. Though the trial magistrate signed the review cover, there are no reasons for judgment and sentence. Further, the record was not submitted for review within the statutory period only to be located as we prepared records for archives. We apologise for sending the record for review well after the statutory period (S57 (1) Magistrate Court Act [*Cap 7:10*].”

In light of the above, I am unable to certify the proceedings as being in accordance with real and substantial justice the records are returned herewith.