

IN THE COURT OF APPEAL OF THE  
REPUBLIC OF BOTSWANA

Criminal Appeal No. 13 of 1989

In the matter of:

GODFREY SIPHAMPE Appellant

vs

THE STATE Respondent

Appellant in person

Mr. N. Chadwick for the Respondent

---

J U D G M E N T

---

Coram: T. A. AGUDA, J.A.  
B. A. DOYLE, J.A.  
G. BIZOS, J.A.

AGUDA, J.A.:

The Appellant and other two persons were tried before the Magistrate's Court in Francistown on three counts.

- (1) Store breaking & theft;
- (2) Unlawful possession of arms of war;
- (3) Unlawful possession of arms and ammunition.

They pleaded guilty and they were sentenced to various terms of imprisonment and fines. They then appealed to the High Court.

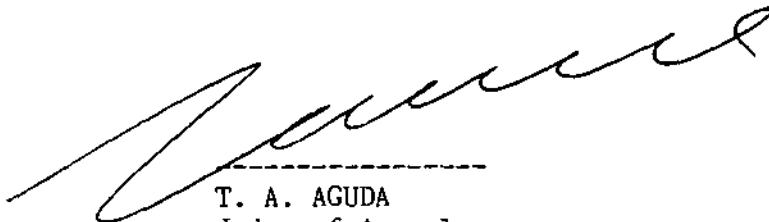
In so far as the present Appellant is concerned the sentence of 7 years imposed upon him by the Magistrate was reduced to 5 years' imprisonment. The sentence of 5 years imposed upon him on Count 2 was confirmed. The two sentences were to run concurrently. In addition he was fined P200.00 in default of which he was to go to prison for 100 days in respect of Count 3. He has sought the leave of this Court to appeal against the judgment of the High Court and we patiently listened

to the submissions which he made to us. However subject to what I will say presently he cannot get leave in respect of the appeal.

However, we think that the sentence in regard to Count 3 should only have been nominal bearing in mind that it is only in respect of the same arms and ammunition for which he had been sentenced under Count 2 and given a long term of imprisonment.

We therefore give him leave in respect of Count 3, allow the appeal on that Count, quash the sentence imposed and order that he be reprimanded, cautioned and discharged.

In effect he will be in prison for 5 years effectively.

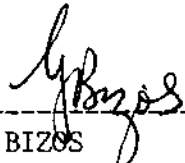


-----  
T. A. AGUDA  
Judge of Appeal



I agree

-----  
B. A. DOYLE  
Judge of Appeal



I agree

-----  
G. BIZOS  
Judge of Appeal

GIVEN AT LOBATSE THIS 27th DAY OF JUNE, 1989.