

IN THE HIGH COURT OF SWAZILAND

In the matter of:

REGIIA

vs

JOSEPH NKABIYEDOLOBHA KHUMALO

Review Order No. 1/85

District of Hhohho

Mbabane 9th January, 1985

Review Case no. 213/84

JUDGMENT ON REVIEW

Dunn, A.J.:

In this case which came before me on automatic review, the Accused was convicted of the theft of a pig in contravention of Section 3(a) as read with Section 18(1) of the the Stock Theft Act No. 5 of 1982. The pig was valued at E20.00. The Accused was sentenced to 3 years imprisonment.

I requested the magistrate to give reasons for the sentence imposed as it appeared that the sentence was excessive in the circumstances of this case. The Accused admitted a fairly lengthy list of previous convictions, the majority of which involved an element of theft. The magistrate has referred to these previous convictions and states that he may have erred in placing too much emphasis on these in arriving at the 3 year sentence. The magistrate agrees that this is a proper case for the suspension of a portion : of the sentence imposed.

The conviction is confirmed. The sentence is altered to read -

The Accused is sentenced to 3 years imprisonment, 18 months of which is suspended for 3 years on condition that the Accused is not convicted of any offence of which theft is an element committed during the period of suspension.

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The Accused is to be brought before the magistrate to have the altered sentence explained to him.

(B. DUNN. )

ACTING JUDGE.