

IN THE HIGH COURT OF SWAZILAND

Rev. Case No. 111/95

In the matter between:

JABULANE HLOPHE AND OTHERS

Appellant

vs

THE KING

Respondent

CORAM:

S.W. Sapire A.C.J.

Mr. J.M. Matsebula J.

FOR THE CROWN

Mr. Wachira

FOR THE APPELLANT

In Person

Judgment

(No date)

This is an appeal by five accused who were charged on diverse charges of stealing goods. The goods were removed from a number of shops in the Swazi Mall. The method employed in each case was identical in that the perpetrator of the offence removed goods which were on display effecting entry through a fanlight window.

Each of the accused, the appellants was found in possession of goods which were stolen from one or more of the shops concerned. Each of the accused gave an explanation which the magistrate was obliged to reject.

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The explanations given are incapable of being believed or reasonably possibly true. It is quite clear that these men all of whom are first offenders may well have been induced into this scheme by the first appellant; but whatever the position is, they participated in the theft of goods from premises which they were supposed to be guarding.

They were all correctly convicted.

The magistrate in sentencing them was sensitive to all the factors which he had to take into consideration and I am not inclined to interfere with his sentences unless I am convinced they are clearly wrong, they induce a sense of shock or were imposed as a result of the magistrate misdirecting himself. None of these considerations are applicable here. Each of the accused has asked that his sentence be predated to the date of his arrest. It seems to me that this is something which in this respect their request can be met because the delay in bringing the matter to trial was not anything over which they had any control. If time passes between arrest and conviction during which time they are incarcerated that should be accredited to them.

I therefore confirm the sentences but order that they are to run in each case from the day after the particular appellant was arrested.

S . W. SAPIRE

J. M. MATSEBULA

ACTING CHIEF JUSTICE

JUDGE