

IN THE HIGH COURT OF SWAZILAND

CRIMINAL TRIAL NO.147/96

In the matter between:

REX

VS

DAVID NORMAN NGWENYA

OBED PHEKU DLADLA

CORAM : MAPHALALA AJ

FOR THE CROWN : MR. J. MASEKO

FOR THE DEFENCE : MR. L. GAMA

JUDGMENT

25/06/97

You pleaded guilty to the offences that were put to you and you did not dispute the serviceability of the firearm in respect of count two. And you also made admissions that you were in possession that is in count 2, 3 and 4.

In the circumstances I find you guilty in respect of the three counts that you are facing.

JUDGMENT ON SENTENCE

I have taken all your personal circumstances into consideration in arriving at appropriate sentences in your case. I have taken into consideration that you are both first offenders and secondly that you both pleaded guilty to these offences which to some great measure has curtailed these proceedings. I have also taken into consideration that you have been in custody for over a year and I do agree with your attorney Mr. Gama, that that in itself is a punishment. The Court will only hope that the period that you were in custody you learnt a lesson. I have also taken into consideration that you are both family men – that

accused no.1 has six minor children to support and that he is intending to go to the Republic of South-Africa to work in mines. I have also taken into consideration that accused no.2 is a married man and he is employed as a builder.

However, I must state that the offences that you committed are very serious offences in this country.

The statute that governs these matters is very stringent when it comes to penalties which shows the intention of the legislature that the Legislature wanted to make sure that such offences are curbed in society. However I think in your case I will have to balance the interest of society as well as your interest. I have stated before that you have been in custody for a year, I think that is punishment in itself.

I am inclined to impose a wholly suspended sentence in your case because a suspended sentence in

itself is a very effective sentence. It will prevent you from committing similar offences in the future.

I will start with accused no.1. I have treated both counts as one for purposes of sentence. The accused is sentenced to 5 years' imprisonment or E5 000; because the firearm I found that it was serviceable, I will suspend a portion of that sentence. Accused is sentenced to 4 years' imprisonment or E4 000 which is suspended for a period of 3 years on condition that the accused is not convicted of an offence under the ARMS AND AMMUNITION ACT committed during the period of suspension.

In respect of accused no.2 he is sentenced to 2 years' imprisonment or E2 000 and the sentence is wholly suspended for a period of 3 years on condition that the accused is not convicted of an offence under the ARMS AND AMMUNITION ACT committed during the period of suspension.

S.B. MAPHALALA

Acting Judge