

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CRIMINAL CASE NO. 257/2005

In the matter between:

REX

VS

MDUDUZI DLAMINI

CORAM : MAMBA AJ

FOR CROWN: MRS M. DLAMINI

FOR DEFENCE: MR M. MABILA

JUDGEMENT ON SENTENCE

7/02/2006

Mr Dlamini you have been found guilty of high treason. This is a serious offence for which the death sentence - the utter extreme of punishment, may be imposed.

I invited both counsel to address me on sentence. They did so and I am grateful for their helpful contribution. Your counsel submitted and, I think it is fair to say, was supported in his submissions by counsel for the crown, that because of the particular circumstances of your case I should in the

exercise of my discretion impose on you a very light sentence in the form of a wholly suspended sentence. I was urged that justification for this course are the following factors, that you

- (a) are a first offender,
- (b) have pleaded guilty,
- (c) are a young man of 30 years of age,
- (d) are remorseful of your actions,
- (e) you were influenced and or pressured into committing this crime by your peers.
- (f) you were arrested on the 20th December, 2005 and you have been in custody ever since,
- (g) you have cooperated with the police in their investigations,
- (h) only minor damage was done to the building that you set alight and you have tendered to pay for such damages to the Government.
- (i) No one was killed or physically hurt as a result of what you did and
- (j) You were motivated by your political beliefs of desiring that the Kingdom should effect some political changes in its governance.

It has to be impressed on you Mr Dlamini, that you have not been convicted for holding the political beliefs that motivated or led you to do what you did. It is your right to hold those beliefs. We probably all have our political beliefs on the politics of our country. You have, however, been convicted for doing what you did and in the manner that you carried it out in order to realise your political ideals or desired changes. You may have had a just cause. The court has not been told what it was except vaguely that you wanted political changes. However, the means and manner by which you set out to realise and or attain those goals - the setting on fire of a building - were criminal and for that you must be punished.

In the statement of agreed facts, which was handed in by consent as exhibit "A", the court has been told that your are a sympathiser of the Peoples United Democratic Movement (PUDEMO) and your aim was "to coerce the Kingdom to effect some political changes." What these political changes are, I have not been told. What PUDEMO is and what its political agenda, goals or ideals are, I have not been informed.

High treason is by all account a serious crime. It is a crime of betrayal. It is a crime of seeking political and social change by unconstitutional means.

What has been submitted by both counsel that I should impose on you a wholly suspended sentence or to caution and discharge you is, to say the least, perhaps indicative of the level of cooperation between you and the crown referred to above. I am, however, not persuaded that I should exercise my discretion in that direction. If I were to accede to this, it would sound like a pat on the back; the court saying to you, "well done for your treasonous acts." I would be abdicating my responsibilities if I did so.

The sentence I impose on you is that you are sentenced to a fine of Ten Thousand Emalangani (E10,000-00) or a term of 2 years of imprisonment. One half of that sentence is suspended for a period of 3 years on condition that you are not found guilty of treason or any crime of which violence or damage to property is an element of the offence, committed during the period of suspension.

On the application of your attorney, the payment of the fine is deferred to the 31st March,

MAMBA AJ