

Hon Justice Tsekoko

THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA  
HOLDEN AT JINJA

H.C.CR.APPEAL NO.9 OF 1993

ROBERT BITANDA :::APPELLANT

V E R S U S

UGANDA :::RESPONDENT

BEFORE: THE HON. MR. JUSTICE C.M. KATO

J U D G M E N T  
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The appellant Robert Bitanda has appealed to this court against a sentence of 6 months imposed upon him by magistrate grade I sitting at Jinja court. He was charged with the offence of being a rogue and vagabond contrary to section 163 of the Penal Code Act. ( It is not known under which sub-section, as section 163 has a number of sub-sections but judging from the facts of the case it must be sub-section (d).) He pleaded guilty to the charge and he was convicted and sentenced to 6 months imprisonment.

When the appeal came up for hearing the learned state counsel was not present but he wrote to the District Registrar a letter dated 12/11/93 saying that he did not wish to oppose the appeal and that he did not wish to be heard at the hearing of the appeal. The appeal proceeded ex-parte.

Mr. Okalang who represented the appellant argued that the accused having pleaded guilty and having been a first offender should not have been sentenced to 6 months imprisonment which is the maximum sentence for this kind of crime. With due respect, I agree with the views expressed by the learned counsel for the appellant. The sentence was unreasonably excessive in all the circumstances of this case. There was nothing to warrant imposition of a maximum sentence in this case, the reasons given by the learned trial magistrate were not supported by evidence they were mere speculations.

There were enough facts to attract a lenient sentence especially as the accused was a first offender and had pleaded guilty to the charge.

In all these circumstances the appeal is allowed and the sentence of 6 months is set aside in its place it is to be replaced by such a sentence as will enable the appellant to leave the prison at the rising of this court. So be it done.

C.M. KATO  
J U D G E  
12/11/93

12/11/93 Later at 11.30 A.M.

COURT: The court is as before.

Judgment is read, signed and dated.

C.M. KATO  
J U D G E  
12/11/93