

KABONGO AND ANOTHER v THE PEOPLE (1974) ZR 83 (SC)

SUPREME COURT

DOYLE CJ, BARON DCJ AND HUGHES JS

9th APRIL 1974

(Appeals Nos 102 and 101 of 1973)

Flynote

Criminal law 15- Sentence - Aggravated robbery involving firearm.

Headnote

The appellants were convicted of aggravated robbery, in the course of which two shots were fired injuring two persons. The trial court imposed the minimum sentence of fifteen years' imprisonment with hard labour.

Held:

Aggravated 20 robbery in which a weapon such as a rifle or a revolver is used does not come within the lowest category of the offence.

Legislation referred to:

Penal Code, Cap. 146, s. 294.

Appellants in person. 25

P Lisulo, State Advocate, for the respondent.

Judgment

Doyle CJ: delivering the judgment of the court, dealt with the merits, dismissed the appeal against conviction and continued: As regards sentence, the learned trial judge passed the minimum sentence for this offence. The appellants used a pistol in the commission of this 30 crime. This type of offence is very prevalent. This court does not consider that such a crime in which a weapon such as a rifle or a revolver is used comes within the lowest category of the crime of aggravated robbery. We wish to make it quite clear to all persons who use weapons of this nature that they risk the chance of a very long sentence of imprisonment. 35 We are determined to do what we can to see to it that weapons are not used for the purpose of robbery.

We consider that the sentence in this case was inadequate and we quash the sentence of fifteen years' hard labour and substitute a sentence of twenty years with hard labour in each case. The sentences will date 40 from the date of arrest.

Sentence increased to twenty years