

EZARA MOYO v THE PEOPLE (1981) Z.R. 173 (S.C.)

SUPREME

COURT

BRUCE-LYLE, AG. D.C.J. MUWO, AG. J.S. AND CULLINAN, AG. J.S.

21ST

OCTOBER,

1980

(S.C.Z. JUDGMENT NO. 24 OF 1980)

Flynote

Criminal law and procedure - Plea - Unequivocal plea.

Headnote

The appellant was convicted of theft of a motor vehicle. When called upon to plead he states:

"I understand the charge. I admit the charge. I stole the motor vehicle in question."

The contents of social welfare reports were tendered in evidence and indicated that the appellants and his two juvenile co-accused had taken the vehicle for a "joy ride."

**Held:**

- (i) The words "I stole" do not constitute an unequivocal plea of guilty to the offence of theft, even where an accused person states that he understands the charge and admits the offence.
- (ii) The appropriate charge would have been one of taking and driving away a motor vehicle without the owner's consent.

**Legislation referred to:**

Roads and Road Traffic Act, (Cap. 766) s. 229.

**Case referred to:**

(1) The People v Zulu (1965) Z.R. 75

For the appellant: In person.

For the respondent: R. Balachandran, State Advocate.

p174

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Judgment

**CULLINAN, AG. J.S.:** delivered the judgment of the Court. The appellant was convicted of theft of a motor vehicle. When called upon to plead he stated:

"I understand the charge. I admit the charge. I stole the motor vehicle in question."

The authorities indicating that a magistrate must satisfy himself and record that an accused person understands and admits each and every ingredient of an offence are legion. For example, in the case

of the People v Zulu (1), Dennison, J., considered that the admission "Yes, I stole" was far from an unequivocal plea of guilty to the offence of burglary and theft. For that matter we do not consider that the words "I stole" constitute an unequivocal plea of guilty to the offence of theft, even where an accused person, as in this case, also states that he understands the charge and admits the offence. The plea in this case was plainly equivocal, a matter which was exemplified by the content of social welfare reports which indicated that the appellant and his two juvenile co-accused had taken the vehicle for a "joy-ride". We consider indeed that the appropriate charge in this case would have been one of taking and driving away a motor vehicle without the owner's consent contrary to section 229 of the Roads and Road Traffic Act, Cap. 766.

In any event the proceedings, based on an equivocal plea, were a nullity. This appeal is allowed. For the avoidance of doubt we order that the finding and sentence of the court below be set aside, and we also order that the appellant be re-tried before a court of competent jurisdiction.

Retrial ordered

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