IN THE SUPREME COURT OF ZAMBIA APPEALS
NO. 67 OF 1996
HOLDEN AT NDOLA AND 100 OF 1995
(Criminal Jurisdiction)
B E T W E E N:

JOHN MULUMBA APPELLANT
AND
THE PEOPLE RESPONDENT

CORAM: NGULUBE, CJ., CHIRWA AND LEWANIKA, JJS.
On 4th June, 1996.

For the Appellant - In person.
For the Respondent - Mr. Okafor, State Advocate

J U D G M E N T

Ngulube, CJ., delivered the judgment of the court.

These are two appeals heard together. In the appeal No. 100 of 1995, the appellant pleaded guilty to a charge of receiving stolen property namely a vehicle on 17th June, 1992 at Kitwe. In the appeal No. 67 of 1996 again he pleaded guilty to receiving stolen property namely a Toyota Land Cruiser and various other properties on 26th January, 1993 at Kalulushi. In both cases the appellant had originally been charged with aggravated robbery. When the charges were reduced to receiving, he pleaded guilty.

The case committed in January 1993 appears to have come up for trial first and the appellant received 5 years imprisonment with hard labour. The learned trial court transferred the second case to another judge whereupon the appellant again pleaded guilty and received another five years which was ordered to run consecutively to the other sentence, in other words the effective sentence is 10 years imprisonment with hard labour. The appellant has appealed to us against the effective sentence of 10 years. He has argued that had the cases been tried by the same judge he might have drawn a more lenient effective total. The appellant suggests that the sentences should have been made to run concurrently, more especially that he was arrested for both cases within a few months of each other. We would like to reaffirm the principle that in the normal course where an accused person is known to have committed several cases, it is preferable that they should be tried before the same court, if possible, so that an appropriate sentence is

calculated for the whole of the criminal conduct of the accused. However, this does not mean that these are not separate cases, they are. It is also correct as a principle of this court that where an accused person commits a series of offences, we encourage the assessment of the sentence as for a course of conduct. Having said that, we note that in both cases the accused received the proceeds of aggravated robberies. We note also that there was no systematic course of conduct, one case was committed in June 1992 the other one in January 1993. These are very separate and unconnected transactions. The courts below were, therefore, not in error when they dealt with the cases as separate cases. As regards the effective sentence of 10 years for receiving expensive properties stolen in robberies, this court does not feel any sense of shock. We consider the effective sentence to have been condign, in other words, it is not even one day too long. The appeal is unsuccessful.

M.M.S.W. NGULUBE
CHIEF JUSTICE

D.K. CHIRWA
SUPREME COURT JUDGE

D.M. LEWANIKA
SUPREME COURT JUDGE