
THE PEOPLE v DAVIES MUMENO
(1990 - 1992) Z.R. 13 (H.C.)

HIGH COURT
W.M. MUZYAMBA, J.
10TH JULY, 1990
(REVIEW CASE NO. HPR/79 OF 1990)

Flynote

Criminal law and procedure - Sentence - Offence of which convicted carries sentence of fine only - Whether trial court competent to order corporal punishment.

Headnote

The accused pleaded guilty to and was convicted of the offence of unlicensed driver contrary to s.110 ss. (1) of the Roads and Road Traffic Act, Cap. 766 of the Laws of Zambia and was sentenced to five strokes of a cane.

Section 110(1) of the Roads and Road Traffic Act, however, provides that any person convicted of driving a motor vehicle without licence, either for the first, second or subsequent offence, is liable to a fine only.

Held:

Where a person is convicted of an offence which carries a sentence of a fine only, he cannot be ordered to receive strokes of a cane [s. 27(2) of the Penal Code, Cap. 146].

Case referred to:

(1) Berejena v The People (1984) Z.R. 19.

Legislation referred to:

1. Criminal Procedure Code, Cap. 160, s. 338.
2. Penal Code, Cap. 146, ss. 27(1), 27(2), 27(3).
3. Roads and Road Traffic Act, Cap. 766 s. 110(1).

Judgment