

Matia v Republic

High Court, at Nairobi September 20, 1985

Cockar J & Torgbor J

Criminal Appeal No 389 of 1984

(Appeal from the Resident Magistrate's Court at Nairobi, R M Mutitu Esq) Advocates

Appellant absent unrepresented and not wishing to be present C W Gatonye for respondent

September 20, 1985, Cockar J & Torgbor J delivered the following Judgment. Theodore Matia Kyoso appeals against his conviction on two counts of theft and concurrent sentence of one year term of imprisonment imposed by the resident magistrate at Nairobi.

The grounds of appeal are various but center on allegations of bias by the trial magistrate and the inadequacy of the evidence upon which the conviction was grounded. On our own assessment of the evidence we find no merit in this appeal. We are satisfied with the trial magistrate's appreciation of the evidence and reject the grounds of appeal. The trial magistrate's careful consideration of the evidence leading to the appellant's acquittal on counts one, three and five does not bear out the allegation of bias or the absence of due consideration of that evidence.

On the evidence we are satisfied of the appellant's guilt and uphold his conviction and sentence which we do not consider excessive.