

**IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CRIMINAL APPEAL NO. 130 OF 2007**

BETWEEN

DICKSON SANDE APPELLANT

-VS-

THE REPUBLIC RESPONDENT

CORAM : HON. JUSTICE A.K.C. NYIRENDA

: Khembo, Counsel for the Appellant
: Ms Jere, Counsel for the Respondent
: Mrs. Kabaghe, Court Reporter
: Mr. Kaferaanthu, Court Interpreter

JUDGMENT

The appellant was charged with and convicted of the offence of theft by servant contrary to section 286(1) of the Penal Code. He was given a suspended sentence of 2 years 6 months. He appeals against his conviction.

I have carefully read through the lower court record and also gone through the arguments on behalf of the appellant and by the State. Fortunately for me the arguments all agree and I also agree with them.

The evidence against the appellant was largely hearsay and should have been disregarded. Furthermore most of the key witnesses were not called. It is not

even clear how the court came to convict the appellant. The evidence was simply not there. I hasten to quash the conviction and consequently set aside the sentence as well.

The appellant will be released from custody forthwith unless held there on account of some other lawful reasons. The issue of reinstatement should be taken up separately in a civil proceeding or through negotiations between the parties.

MADE in Open Court at Lilongwe this 22nd day of February 2008.

A.K.C. Nyirenda

J U D G E