

**IN THE RESIDENT MAGISTRATE'S COURT OF ARUSHA
AT ARUSHA**

RM ECONOMIC CASE NO. 3 OF 2013

THE REPUBLIC

VERSUS

ALOIS YEUSEBI ACCUSED PERSON

J U D G M E N T

BEFORE: D. J. MSOFFE, RM.

This is a judgment in respect of Economic Case No. 3 of 2013. Accused is Alois Yeusebi who stand charged with unlawful possession of Government Trophy Contrary to Section 86 (1) (2) (b) and 3 of the Wildlife Conservation Act, 2009 No. 57 (1) and paragraph 14 (d) of the 1st schedule to the Economic and Organized Crime Control Act Cap. 200 Revised Edition, 2002.

It was alleged that, on the 24th day of February, 2013 at Amboseli Village within Simanjiro District in Manyara Region was found in unlawful possession of one carcass of Lesser Kudu Valued at Tanzanian shillings four million one hundred and sixty thousand 4,160,000/= the property of Tanzania Government. From the filed consent, the accused herein disagree with the said allegation and this court entered the plea of not guilty. The prosecution side managed to call the following witnesses in order to prove this matter.

PW 1 that is Petro Owigo testified on oath that he work as game reserve officer and on 24/02/2013 at 7.30 in the night he was on his normal patrol and they went to one camp situated at Ruvu and he was together with one Raymond Mdoe and on such a patrolling they managed to saw foot prints, they followed it, until they reach to one camp and no body was there. They decide to hide themselves, them then saw two

people who went there and enter inside and from there they managed to capture one person, and after interrogate with him, he told them that he is Aloyce Yeusebi and his fellow is Msafiri. They search them and managed to get one carcass of lesser cutten in small sizes, and they also saw one bush knife, and a wire, things that are used in trapping purposes, and they did not have any license for such a business.

On cross-examination this witness and, he captured them at their camp and at police he did not tender any statement. There was no re-examination for this witness.

PW 2 that is Deonatus Makene testified on oath that, he work as a game reserve officer. On 28/4/2013 he was at Police and he was asked to prepare a valuation report, he did it. There was no cross examination a well as re-examination.

PW 3 that is Raymond Mdoe testified on oath that, he work as a game reserve officer, and on 24/02/2013 he was on patrolling at Norbesi Simanjiro District and on the said patrol they got an information from their informer that, there is camp that deals with illegal hunting and that camp situated at Norbere closely to Ambuseli and when going close to it, they saw some footprints that was going to that camp, after reached they ambush it and one person went there and enter inside, they arrest him and took him to the station but before they inspect it and found one carcass of lesser Kundu and one trapping wire. This witness also said that, his fellow who runned away is called Msafiri.

On cross-examination, this witness said, the said camp shows to be there for hunting issues and charcoal process, and he was together with his fellow worker.

On re-examination he said, they were the 1st person to enter into that camp, and the environment shows that, they were dealing with hunting.

That was all about the evidence well adduced by the prosecution side and from the said evidence the accused was seen to have a case to answer, he briefly lodged his evidence in brief under oath as follows.

DW 1, that is Aloyce Yeusebi testified on oath that, on 24/02/2013 he was at Simanjiro in the farm and in the evening hours police officer went there and asked him to show them the place that deals with charcoal i.e (Kambi ya Mka) the accused told them that he knows nothing as he was there for farming activities, they then search his home place but they found nothing but they took his 200 litters kind of containers and they also took 500 litters kind of containers, from there they took him and they moved together the whole night together with their car and at one place called Mgage they beat him a lot.

This witness also said that, those police told him that if he won't give them money i.e. 300,000/= they will took him to court.

On cross-examination by State Attorney this witness said, on 24/02/2013 he was at Simanjiro Norbesi dealing with farming activities at his boss farm. He also said that, those container were 6 in number, and those police beat him a lot but they did not take him to hospital, and those 300,000/= was in order for him to be released, and in such a place he used to saw cows and goats. There was no re-examination for this witness.

That was all about the evidence that transpired in this particular matter. The main issue for consideration it is whether the accused herein was found in unlawfully possession of government trophy as alleged by the prosecution side? In answering to the raised issue, this honourable court will consider the tendered evidence by both sides from which it is together with the defence evidence. From the filed charge sheet it was alleged that on 24h February, 2013 at Amboseli Village, the village situated at Simanjiro District in Manyara Region, he was found in unlawfully possession of one

carcass of Lesser Kudu, now the issue here is was that well proved? In proving so, the prosecution managed to call a total number of three witnesses in order to prove their case but to some extent they failed to prove it well, there are some contradictions which made me to say so. For example PW 1 that is Petro Owigo while under examination in chief he said; on the said date of 24th day of Februar, 2013 while under his normal patrol, together with his fellows they all went to one camp situated at Ruvu and capture the accused, not this witness talking about Ruvu but the allegation filed in court shows the accused to be captured at Amboseli. This is doubt.

Moreover, PW 2 that is Deonatus Makene who testified as the witness who did the valuation of the alleged trophies, on his evidence while under examination in chief he told this court that, as a valuer, on 28/04/2013 he prepare a report. I passed through the valuation report which was admitted as exhibit, very surprisingly the said report shows to be signed on 28/02/2014. This is a very serious doubt, as how can the report prepared in 28/04/2013 and then signed on 28/02/2014? All these doubts make me to have faith that, it might be true that, the accused herein on the said date was on his faming activities and not as alleged. Therefore from the reasons stated, I find the accused herein not guilty and due to that I acquit him from the offence he is stand charged with.

It is so ordered.

Sgd. D. J. Msoffe, RM
02/10/2014

Date: 02/10/2014

Coram: D. J. Msoffe, RM

Accused: Present

Paros: Sule State Attorney

Court Clerk: Sarah

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02/10/2014

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Coram: D. J. Msoffe, RM

Accused: Present

Paros: Sule State Attorney

Court Clerk: Sarah

State Attorney: It is for judgment


Accused: I am ready too

Court: Judgment delivered today before the parties and right of appeal well explained.

Sgd. D. J. Msoffe, RM

02/10/2014

I certify that foregoing is a true
and correct copy of original


Assistant Magistrate

Admin. Date: 10/12/05