IN THEE RESIDENT MAGISTRATE'S COURT OF ARUSHA

AT ARUSHA

ECONOMIC CRIME CASE NO 26 OF 2014

REPUBLIC

VERSUS

DEODATUS S/O JOSEPH

JUDGMENT

BEFORE: HON J. B NDAWEKA – RM

In this economic crime case the accused person one Deodatus S/O Joseph is charged of two counts both being in unlawful possession of Government trophies contrary to section 86 (1) & (2) (b) of the wildlife Conservation Act No 05/2009 read together with economic and organized crimes control Act (Cap 200 R.E 200). The particulars of the offence are that on the 10th July 2014 at Marerani – Kilimahewa street within Simanjiro District Manyara region, the accused was found in unlawful possession of two Impala meat valued at 780 Usd equivalent to 1,248,000/= at the time of arrest and also two Dick dick meat valued at 500 USD equivalent to 800,000/= at the time of arrest both being the properties of the Tanzanian Government.

Upon pleading not guilty to the charge, the prosecution brought a total of five witnesses and seven exhibits.

PW1 Saiguran XX. Mollel, a wildlife warden with twenty one years of experience in his work, PW II Mr. Benjamini Sarakikya, wildlife warden with fifteen years of experience, PWIII Jonas Deogratius a forest officer with twelve years of experience and PW IV Mr. Walter Urio a game warden with five years of experience both testified before this court that on the 26/05/2014 they were together in their routine patrol and on that day they were at Mererani area Simanjiro district when they received a "tip" that there are people selling game meat at Kilimahewa street. The witnesses testified that they decided to follow up and they saw a motorcycle parked outside with sulphate bag an it and the accused

with it but once he saw them he started running and they pursued and succeeded in arresting him. The witnesses further stated that they took the accused back to where the motorcycle was and inspected only to find that the sulphate bag had Impala and dick dick meat in it.

The witnesses said that they then asked the accused if he has any permit but he had none and therefore PW1 filled a certificate of Seizure under section 106 of the wildlife conservation Act No 5 of 2009 (The Act) and was admitted in this court as exhibit P1, and then Mr. Jarthan Mollel who is currently deceased filled an Inventory form (exhibit P4a) which was brought by the Public prosecutor Mr. Michael Msokwa under section 34B(1) of the evidence Act by reason of death. The meat together with an inventory form was then taken to Olkesmet primary Court Simanjiro district where honorable primary Court magistrate on the 27/05/2014 ordered the disposition of that meat.

Lastly, PW1 evaluated the trophies under section 86 (4), 114(1) and 121 of the Act to be worth Tanzanian shillings 2,048,000/= and that evaluation report was admitted as exhibit P3.

The witnesses later took the accused person and the exhibits to the Anti – porching unit Arusha where Mr. Burchad Mukandala a game warden of Anti- porching unit with 37 years of experience took his cautioned statement which was admitted in this as exhibit P5. Accused challenged the cautioned statement contending that what is contained in it are not his words, however, after conducting an inquiry I was satisfied that the cautioned statement by the accused is his statement and there is nothing to suggest that it was fabricated statement. Upon the closure of prosecution's case, I found that the evidence adduced and exhibits submitted against the accused person is so strong that the accused person should defend himself.

The accused person as Pw1 stated that, on the 26/05/2014 when he was from his house going to his work place when he met the motor vehicle with people in it who said to each other that this is the person who escaped from us and later they arrested him and finally brought before this court. The accused as Dw1 stated that he knows nothing about the case. That was all he could say is his defence.

The offence with which the accused is charged of is constituted when a person is found in unlawful possession of government trophies. By unlawful it means that a person has not fulfilled legal requirement to posses the same, as have been mandated by section 86 of the wildlife conservation Act above. According to the wording of the Act, once a person is found being in possession of what has been declared by the Act as "Government' trophy(vide section 3 of the wildlife conservation Act) then it is his duty to prove that his possession in lawful subject to the provisions of the laws.

The evidence adduced by the prosecution, after I thoroughly examined it, it leaves no dought to me that the accused was indeed found in possession of two Impala's meat and two dick- dick meat. This is because, there is nothing in the prosecution's evidence that raises any doubt that the meat of the said animals was seazed from accused, and taken before Honorable Primary Court of Okesmet where the primary court Magistrate ordered their disposition.

The defence by the accused to me holds no water as I do not see any reasons why this government servants would associate him with this case if he had not committed the offence charged.

As I find that beyond reasonable doubt the accused was found in possession of two Impala's meat and two dick – dick meat on the 26/05/2014 at Mererani-Kilimahewa street in Simanjiro District Manyara region, without permit from lawful authority I therefore do hereby convict one Deodatus S/O Joseph with two counts of the offence of unlawful possession of Government trophies under section 86(1) and (2) (c) (ii) of the wildlife conservation Act No 5 of 2009.

Sgd J. B Ndaweka – RM
27/08/2015

PREVIOUS RECORDS
Mr. Msokwa

No previous records but considering the porching trend in this country we pray for severe punishment to the convict and under section III(1) (d) it provides that the exhibits be confiscated.

MITIGATION BY THE ACCUSED

I pray for an acquittal because I did not commit the offence

SENTENCE

This offence as provided under section 86(1) and (2) (b) of the wildlife Act attracts the punishment of improsnment between 20 years to 30 years. Considering the fact that the accused is a first offender 1 rull that a minimum sentence provided is enough to rehabilitate him and I therefore do hereby sentence him to serve twenty years imprisonment sentence for each offence convicted of.

Sgd J. B Ndaweka – RM
27/08/2015

Order

- The properties involved in the commission of the offence to wit a motor cycle with registration No. T 117 BWT make Toyo and a knife and a machele be confiscated by the government under section 111 (1) (d) of the wildlife conservation Act.

Sgd J. B Ndaweka – RM
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Court: Right of appeal has been explained within thirty days

Sgd J. B Ndaweka – RM
27/08/2015

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

Resident Magistrate
Arusha Dated 23/12/2015