

THE UNITED REPUBLIC OF TANZANIA

**IN THE DISTRICT COURT OF MONDULI AT MONDULI
DISTRICT.**

ECONOMIC CAUSE NO. 16 OF 2010.

THE REPUBLICPROSECUTOR

VERSUS

ACCUSED:-.....LAURENT SIMON.

BEFORE: M. P. MRIO (SRM).

J U D G E M E N T.

The accused person named LAURENT s/o SIMON stands charged with on e offence to wit unlawful possession of government trophy c/s 60 (2) and 86 (2) and (b) of the Wildlife Conservation Act, No. 5 of 2009 read together with section 57 (1) and paragraph 14 (d) of the 1st schedule to the Economic and Organized Crime Control Act, Cap 200 R.E 2002.

It was alleged that on the 6/10/2010 at Malale River within Monduli District and Arusha region was found in unlawful possession of one carcass head of Hippopotamus valued at American Dollars five hundred as fifty (USD 550), the property of Tanzania Government.

After we have got Director of Public Prosecution's consent the charge was read over to the accused person who pleaded not guilty to it. Preliminary hearing was conducted and nothing much was agreed upon except accused's personal particulars.

Prosecution side called up the following witnesses to prove their charge; The first prosecution witness was STEPHANE s/o KUANDIKA who posed as PW1. PW1 testified under oath as to the following; that it was on 06/10/2010 when he was at the inspection at Malela River where they arrested the accused person with the head of hippopotamus, when he was

skinning it. He was with his fellow who ran away. They arrested him to Mto wa Mbu Police and inventory was prepared. There was no meat at the scene of crime. He had no permit to enter to the National Park area and hunt thereto. He identified the evaluation report paper and he tendered the inventory as exhibit PI. He pointed a finger to the accused who was in the dock as the person they arrested with hippopotamus head.

When PW1 was cross examined by the accused person he told the Court that they arrested him while skinning the said head, he had a knife, bush knife they did not made a photo as they had no camera. He could not recall the kind of cloth he was wearing. He had no idea as to the kind of weapon of which he used to kill the hippopotamus.

The 2nd prosecution witness was DAMIANI MPANGIWA PINDE who posed as PW2. PW2 testified under oath as to the following; that it was on 06/10/2010 when he was inspecting at Malela area which was inside Manyara National Park while with his fellow. They saw two people nearby Malela River one of them ran away and the accused started to ran too but they managed to arrest him he was arrested with the head of hippopotamus. He was arrested to Mto wa Mbu Police. He had no permit allowing him to enter and hunt at the National Park area. From the Residential area to the place they arrested him was estimated be 4 – 5 Kilometers.

When PW2 was cross – examined by the accused person he told the Court that they saw him with a head of hippopotamus and he saw him with his naked eyes at the scene of the crime. They had no camera so they did not make a photo. He could not recall the color of the clothes he was wearing and he had no idea as to the type of weapon he used to kill the said hippopotamus.

The 3rd prosecution witness was REVOCATUS s/o MUYENGWA who posed as PW3. PW3 testified under oath as to the following; that his daily duty was to guide the National Park. It was on 06/10/2010 around 11.00 am when he was at Malela River inside Manyara National Park inspecting there while with his fellow. They saw two people at the side of the said River. The said two people saw them and started to run but they managed to arrest one of them with a head of hippopotamus while skinning. They interrogated him and he head no permit which allowed him to entered hunt to the National Park area Philipo Amin identified the kind of meat and evaluation report as well as the inventory was made there to. He tendered the

evaluation report which was received as exhibit PII. He identified the accused in the dock as the person they arrested at the scene of the crime.

When PW3 was cross examined by the accused person he told the Court that the accused had a knife of which he left it at the scene of the crime.

The 4th prosecution witness was HEBRONE s/o YUSUPH KIIPIKO who posed as PW4. PW4 testified under oath as to the following; that it was on 06/10/2010 around 11.00 am when they were at Marera River which was inside Manyara National Park. They saw two people who started to ran away but they managed to arrest one of them who took them back to t he place where they were skinning a head of hippopotamus. They saw blood there. They arrested him to Mto wa Mbu Police. He identified the accused in the dock as the person they arrested him in the National Park. When PW4 was cross – examined by the accused person he told the Court that they asked him that about the permit to kill the said hippopotamus he saw him at the National Park and he could not frame a case against him. He saw him while running if he was not a poacher why did he have to run. He never saw him before the incident and he could recall his face too. He saw the head which he was skinning.

After PW4 testimony prosecution side closed up their case and a ruling was written where the Court was satisfied that a prima facie case was established. The accuse person was given his right of defending himself. He opted to defend himself without calling any other witness. The defence witness was LAURENT s/o SIMON who posed as DW1. DW1 testified under oath as to the following; that it was on 06/10/2010 around morning hours when he went to the corridor area at Jangwani Mto wa Mbu to cutting firewood. When he reached to the road he saw a car which belongs to Tanapa. Tanapa Park Rangers started to beat him and he was arrested to their car hence to the Police. The next day his caution statement was written where he was told that he was arrested inside National Park area and he denied. He was taken to Court. When DW1 was cross – examined by the Public prosecution he told the Court that he was residing at Jangwani Mto wa Mbu and he rented a room at Rogati's house and he had a contract thereto. He was from Magugu area before gone to Jangwani. He has no family at Jangwani corridor area is within National Park area but they were permitted to pick firewood on Sunday and Saturday he was with a lot of people but he was wounding as to why was he arrested alone. The area was

nearby residential house but he never shouted for help. There were some people cultivating nearby but they could not hear his voice. If there is a picture to proof that he was arrested with some meat he cannot deny the same.

After the summary of evidence of both sides it is the duty of the Court to make its findings by applying the evidence so adduced and the law applicable to the offence. It is a cardinal principle of criminal law that prosecution side owes a duty of proving the charge beyond reasonable doubt. The only issue is whether the accused person was found in unlawful possession of government trophy to wit carcass head of hippopotamus.

PW1 one STEPHANO s/o KUANDIKA stated that on 06/10/2010 the accused was found with one head of Hippopotamus at Malela River which is inside Manyara National Park. He tendered inventory to prove the same (exhibit PI) I noted exhibit PI which was dated 08/11/2010 and it was written "KICHWA CHA KIBOKO" of which the Magistrate who signed it ordered it to be destroyed. The said inventory confirmed what has been by PW1. PW1 is the eye witness who saw the accused with hippopotamus head. Entry to the National Park as a tourist is allowed with permit unless you are and employee of TANAPA. The direct evidence as he saw the accused inside the National Park area with hippopotamus head and as no one is allowed to hunt there I take his testimony with weight PW1's testimony was supported by PW2's testimony with the same effect as a person who saw the accused person with a hippopotamus head inside the National Park my analysis's be the same as I have said in PW1 testimony.

The same evidence was testified by PW3 but in additional he tendered evaluation report. That is exhibit PII. I went through exhibit PII which was written Hippopotamus. One piece valued at 550 USD it was signed on 06/10/2010 which was the same date where accused was arrested with. As far as the Regulations of the National Park's are concerned if someone is arrested with part of the body of an animal the evaluation is being determined to the whole body which means evaluation of one Hippopotamus means head of the Hippopotamus with its whole body I have no doubt on his testimony as an eyes witness and I take it with weight entirely.

PW4 testified the same evidence as the rest of the witness above as the person who saw the accused while skinning hippopotamus heads inside the National Park area. I take his evidence with weight in his defence the

accused person agreed to have been arrested inside the National Park area but he was just cutting firewood when Park Rangers started to beat him. I do not think that Park Rangers are insane and arrest people beating them without probable and reasonable cause, it hat could be the case they could have beaten everybody living there could have been arrested charged with unlawful possession of government trophy indeed his testimony had nothing to counted what has been testified by prosecution side. It is my considered view that prosecution side managed to prove the offence beyond reasonable doubt I hereby find the accused person guilty to the offence charged and I convict him forthwith. It is ordered so.

Sgd: M. P. Mrio – SRM
03/05/2013.

Court: Delivered this 03/05/2013 before Miss Assenga. Miss Jawewa (State Attorney) for the Republic and before the accused person under Court seal.

Sgd: M. P. Mrio – SRM
03/05/2013.

PREVIOUS RECORDS:

We have no previous record but we pray for heavy sentence as the poacher are destroying our National Park and denies us the in come too.

Sgd: M. P. Mrio – SRM
03/05/2013.

Court: I pray for lenient. I will not repeat again.

Sgd: M. P. Mrio – SRM
03/05/2013.

S E N T E N C E:

I have considered the fact that the convict is a fist offender. I also considered his mitigation I hereby sentence him to go to jail for six years. The sentence is a deterence to others who are committing the same offence. The government is using a hug amount of money to keep our nature beautify

for the to day and future generations for sustainability of environment and tourist activities as well as economic gain for ourselves and for our Nation.

Sgd: M. P. Mrio – SRM
03/05/2013.

Court: Right of Appeal fully explained.

Sgd: M. P. Mrio – SRM
03/05/2013.



Certified true copy of the
judgment/order/document.


Magistrate

3/7/2014