

CASE-LAW ANALYSIS
POACHING AND ILLEGAL WILDLIFE TRADE IN TANZANIA

| GENERAL INFORMATION ABOUT THE CASE | |
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| Case number | No. 56 of 2015 |
| Court | High Court – Moshi Registry |
| Year (date) | 2015 |
| Name of the judge | Sumari J. |
| Name of the parties | Jasper Philemon Mngwulwi vs Republic |
| Prosecuting authority (DGOs, state attorney, police...) | Appel from Criminal Case No. 13 of 2013 in the District court of Same |
| Representation of accused person (lawyer?) | In person – No legal representation |
| Transnational elements (Citizen/non-citizen, cross-border offence...) | Citizen |
| DESCRIPTION | |
| Defendants (age, gender...) | In original proceedings it was Male – Adult |
| History of the case | The appellant Jasper Philemon Mngwulwi was arrested and charged at Same District court for the offence of possessing government trophy. The case was heard and he was convicted and sentenced to six years imprisonment. Being dissatisfied with the decision of the District court he appealed to the High Court. |
| Facts | On 25 th August, 2013 at about 01:00hrs at Mheza-Maore Village within Same District – Kilimanjaro region, the appellant was arrested for being in unlawful possession of the government trophy which is one “cheeter” skin worth Tshs. 7,942,900, the property of the government of the United Republic of Tanzania and without permit or license. He was charged at Same District court, was found guilty as charged and was sentenced to six years of imprisonment. Being dissatisfied with the decision of the District court he appealed to the High Court and produced three grounds of appeal. The appeal was |

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| | heard while he was standing on his own with the Attorney General on the other hand. |
| Charges | <p>Unlawful possession of the government trophy contrary to Section 86 (1), 2 and (b) of the Wildlife Conservation Act No. 05 of 2009 read together with para 14(b) and (d) of the first schedule to and section 57 (1) and 60(2) of the Organized Crime Control Act. Cap 200 R.E. 2002.</p> <p>On appeal, the appellant had the following grounds of appeal:</p> <ol style="list-style-type: none"> 1. The learned Magistrate erred in law and fact by failing to note that the charge was not proved to the required standard of law against the appellant 2. The learned Magistrate erred in law and in fact by failing to note that the witnesses brought forward were not credible as they were unfaithful 3. The learned Magistrate erred in law and fact by failing to realize that there was no cogent and substantive evidence to warrant conviction of the appellant |
| SPECIES | |
| Name | "Cheeter" (cheetah?) skin |
| Value | Tshs. 7,942,900 |
| Processed/Not processed | Processed |
| LEGAL REFERENCES | |
| Legislation (principal and ancillary legislation) | Wildlife Conservation Act No. 05 of 2009 Economic and Organized Crime Control Act, Cap. 200 R.E. 2002 |
| Cases cited | Nyerere Nyague vs Republic. Crim. App. No. 67/2010 (unreported) |
| International instruments | NIL |
| DECISION/OPINION | |
| Decision | Appeal allowed and conviction was quashed |
| Basis of the decision (reasons) | Contradiction in the evidence tendered before the court with regard the type of the animal skin which was found and its value. Contradiction in recording the names of the appellant in the original suit in District court. |
| Legal issues raised in judgment | Whether the charges against the appellant were proved to the required standards. |

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| Penalty | Acquittal and conviction quashed |
| OTHER CONTEXTUAL INFORMATION | |
| Context | Appeal from the District court on the conviction of the accused quashed due to irregularities in recording the evidence at the trial stage. |
| Appealed/Not appealed | This was an appeal from the District court |
| Bail | No information |
| Opinion on the case | NIL |