

CASE-LAW ANALYSIS  
POACHING AND ILLEGAL WILDLIFE TRADE IN TANZANIA

<b>GENERAL INFORMATION ABOUT THE CASE</b>	
Case number	No. 13 of 2013
Court	Same District Court
Year (date)	2013
Name of the judge	G.N Kirwijila RM
Name of the parties	Republic vs Jasper Philemon Mngwulwi
Prosecuting authority (DGOs, state attorney, police...)	Police Prosecutor
Representation of accused person (lawyer?)	No Representation
Transnational elements (Citizen/non-citizen, cross-border offence...)	Citizen
<b>DESCRIPTION</b>	
Defendants (age, gender...)	Male Adult
History of the case	Accused was arrested at Mheza-Mahore Village in Same District Kilimanjaro region on allegations of been found with unlawful possession of the Government trophy to wit was the cheetah skin. He was charged at Same District Court.
Facts	On 25 <sup>th</sup> day of 2013, accused was found in possession of the Government trophy and was charged for being in possession of the Government trophies contrary to section 86 (1) and (2) (b) of the Wildlife Conservation Act, No. 5 of 2009 read together with section 14(d) of the Economic and Organized Crime Control Act [Cap 200 R.E 2002]. The accused denied all of the charges and prosecution brought evidence against him to prove their case.
Charges	Unlawful possession of government trophies contrary to section 86 (1) and (2) (b) of the Wildlife Conservation Act, No. 5 of 2009 read together with section 14(d) of the Economic and Organized Crime Control Act [Cap 200 R.E 2002].

<b>SPECIES</b>	
Name	Cheetah skin
Value	Tshs. 7,942,900
Processed/Not processed	Not processed
<b>LEGAL REFERENCES</b>	
Legislation (principal and ancillary legislation)	Wildlife Conservation Act, No. 5 of 2009 Economic and Organized Crime Control Act [Cap 200 R.E 2002]
Cases cited	NIL
International instruments	NIL
<b>DECISION/OPINION</b>	
Decision	Accused was convicted as charged
Basis of the decision (reasons)	The prosecution side managed to prove the case beyond reasonable doubt
Legal issues raised in judgment	The followed legal issues were raised and determined in the cause of the determining this case: <ol style="list-style-type: none"> <li>1. Whether the accused person was liable to the offence he was charged with</li> <li>2. Whether there were persons witnessing the whole event when the accused was found in possession of the alleged trophy to wit animal skin. Where, when and how?</li> <li>3. Whether the place where the accused resides are two or more houses and if the answer is in the affirmative then whether one is designed as a store</li> <li>4. Whether the cation statement document tendered by the prosecution side was really prepared by or another person and how?</li> <li>5. Whether the animals skin (cheetah skin) alleged to be found in the the accused store belonged to the accused or wabrought there by the Mkomazi National Park Rangers and how?</li> <li>6. Whether the accused person had hatred or personal grudges with the village chairman for Mheza or another person a resident of that village and to what extent.</li> </ol>
Penalty	Two sentences/punishments were imposed: <ol style="list-style-type: none"> <li>1. Imprisonment for a term of six years</li> <li>2. Payment of the compensation in the tune of Tshs. 7,947,900 after the completion of the sentence.</li> </ol>

<b>OTHER CONTEXTUAL INFORMATION</b>	
Context	This is the case which exhibits the possibility of persons being charged based on the fictitious case. There are many issues I found not fully proved by the prosecution side but however, the court went ahead and convicted the accused.
Appealed/Not appealed	The case was appealed to the High Court – Moshi Registry and it was Appeal case No. 56 of 2015. Accused was acquitted on appeal.
Bail	No information
Opinion on the case	This case raises one very important question on the imposition of the sentence. Whether payment of compensation is proper and or possible after serving the sentence.