

**THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT COURT OF KILOSA**

AT KILOSA

ECONOMIC CASE .NO. 6/2015

REPUBLIC

VERSUS

SAID S/O ABDALAH

JUDGEMENT

31/3/2016 and 6/4/2016

The accused person in this case one said Abdalah Stand charged with the offence of unlawful possession of Government trophies c/s 86 (10,(2) (b) and (30 of the wildlife conservation Act, no5 of 2009 (cap 283) read together with paragraph 14(d) of the 1st schedule to and section 57 (1) and 60 (2) of the Economic and organized crime control Act cap 200 R.E 2002

The particulars of the offence are that the accused on 26/9/2013 at Mihanda village Mikumi ward within Kilosa District was found in possession of Government trophies to wit 10 pieces of elephant meat valued at tsh 24,127,500/= the property of the government of the united Republic of Tanzanian without permit or license.

The accused pleaded "Not guilty" to the charge as a result; the prosecution side summoned five witnesses to testify before the court

Pw1, one Francis Damas Tarimo, a park Ranger at Mikumi national park stated that on 26/9/2013 he together with others went to Muhenda.

They went to the Ten cell leader they told him their suspicion he took them to the accused's home.

They knocked, the accused opened the door, they searched inside the accused's home, but they didn't find anything, they then told him to show them his outside compound, he did so, they found a Kichanja, "it was covered with grass, and inside in there were 10 pieces of elephant meat, they interrogated the accused but he admitted that he had no permit.

In cross examination pw1 stated that they had a search warrant and that the accused person signed on the said search warrant.

Pw2, one Abdalah Salumu Taluki a ward chairman at Muhenda, stated that on 25/9/2013, there went the OCS of Mikumi and some park rangers, he took them to the accused's home, they searched in his house but they didn't find anything, they then went outside, they found a Kichanja, they searched inside the Kichanja and they found "wild meat"

In cross examination pw2 said, the Police had the search warrant, but the accused was not given the search warrant to sign.

He also said he didn't know if the said meat was in possession or not

Pw3, one Serafine Mingara, told the court that, he is a game officer and on 30/9/2013 he was handled ten pieces of elephant meat, in which he valued it and he knocked that it was with tsh 24,179,500/= police gave him an evaluation form, whereby after his inquiring he filled on it. Was admitted as exhibit p1.

Pw4 one Elishatra Shartieli Kilabo started that on 26/9/2013 he was asked to go to Muhenda by the park Rangers, he agreed, when they arrived at Muhenda they went to see the ten cell leader, they explained to him why they were there, he took them to the accused's place, they inspected inside his house, they didn't find anything.

Then they went outside, they found a Kichanja.

They checked inside it, and they found ten pieces of Elephant meat some of the pieces had elephant skin, they interrogated the accused but he said the meat was not his.

After that they filled a search warrant he tendered the search warrant and it was admitted as exhibit p2.

Pw4 said after that they took the accused up to the police station they prepared an inventory and it was admitted as exhibit p3.

Pw5, one James shayo, a park Ranger at Mikumi, told the court that on 26/9/2013, he went to the accused home. He just like pw4 said they found ten pieces of meat which some of the pieces of meat had elephant skin; he observed the same having a big skin and greysh hair.

This marked the end of the prosecution case.

In his defence, the accused said the prosecution witnesses went to his house, they searched inside his home they didn't find anything, they went outside and they went back with meat, which they claimed was his.

He also said pw4 said he signed on the search warrant but that was not case.

I have considered the merit of this case.

The main issue before the court is on whether the accused person committed the offence charged.

It is in no dispute that pw1, pw2, pw4 and pw5 went and searched at the accused home,

It is also in no dispute that they didn't find anything inside the accused person's house.

However, they found 10 pieces of elephant's meat, outside the accused person house, which was inside a Kichanja.

Well the accused does not dispute on this, but his claim that he was not aware of the said meat being at his outside compound.

Well, I wonder, why the prosecution side claimed the meat belonged to the accused person, while at his house, there were other people as well.

But then again, pw2, the ward chairman, in his cross examination said, he didn't know to whom the meat belonged to

Likewise pw1 said that the accused person signed on the search warrant while pw2 said that the accused person didn't sign on the search warrant, this is surprising as both witnesses were eye witnesses howcome one saw the accused signing and the other did not. As if that is not enough the prosecution witnesses identification was as well weak, since pw1 and pw2 only saw 10 pieces of elephant meat but pw4 and pw5, explained that some of the meat was unskilled and that it contained its hair these are two different stories, as this court considers which is which.

If you look at the search warrant you cannot find the accused's person name, instead there is the name of Said A chakumba, so I wonder if this is the same person in court as in the charge sheet the accused person is required to as Said Abdallah.

With this, I hereby find that the prosecution side has failed to prove their case beyond any reasonable doubt, I thus acquit the accused person forth with

I so order.

S.B.Fimbo Srm

6/4/2016

Date: 6/4/2016

Coram: Hon S.B.Fimbo -Srm

Pros: Insp Peter Nassoro

Accused: Present

Court clerk: Mlingwa

Pp: case is for judgment

