

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

**AT KILOSA**

**ECONOMIC CASE NO. 04/2014**

**REPUBLIC**

**VRS**

**STAMBULI S/O RASHIDI**

**JUDGMENT**

30/3/2016 and 6/4/2016

The accused person in this case one Stambuli Rashidi stands charged with the offence of unlawful possession of government trophies c/s 86 (1) (2) (c ) (ii) of the wildlife conservation Act no. 5 of 2009 cap 283 read together with paragraph 14(d) of the 1<sup>st</sup> schedule to and s. 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 27/8/2014 at Mfulu village, Kitete ward within Kilosa District was found to be in possession of a Government trophy to wit four (4) Kilograms of Bushbuck meat valued a tsh 936,000/= the property of the Government of the United Republic of Tanzania without a permit or license.

The accused person pleaded "NOT guilty to the charge as result the prosecution side summoned four witnesses to testify before the court.

Pw1, one G974 D/C David stated that on 27/8/2014, they were informed that at Mfuru, there was a person called Stambuli Rashidi who was in possession of a weapon, and he was also selling wild meat ,they informed the OCS he assigned the four of them to go to Mfuru village ,they went to the village office they looked for

the VEO, they told him they needed his assistance, they went to the accused home. The accused was there, they searched in his house they found a head of a bushbuck animal, four limbs of the same wild animal and meat weighing 1 kg, all the exhibits weighed 4 kgs, they took a search warrant they filled it then they signed on it

The accused admitted that the exhibits were his, but he denied if the same were wild meat.

Pw2, one Serafine Mugala claimed to have been handled a bushbuck head, four limbs and meat, whereby he was asked to identify them, since he was an expert, He identified the same as parts of a bushbuck animal, which was valued at USD 600 which is equal to tsh 936,000/= he then wrote the valuation report, pw2 tendered the said valuation report and it was admitted as exhibit P1.

Pw3 E 6455 D/coplo Elia said he was handled bush buck meat, he took the said meat to a wildlife officer, he valued the same and found that it weighed 936,000/= He took the said meat to a Magistrate who filled an inventory form, pw3 tendered the inventory form and it was admitted as exhibit p2.

Pw4 one F9121 D/C Salumu stated that on 27/8/2014 they went to the accused's home. They inspected inside they found a bushbuck head .four limbs, and meat all weighing 4 kg

They had a search warrant they filled it, and then they signed on it. Pw4 tendered the search warrant and it was admitted as exhibits p3

In his Defence, the accused said the prosecution witnesses searched in his house they found cow's meat but they claimed it was bushbuck meat. DW2 one Rashid Kibidu and DW# one Domick Isidori

All claimed to have been witnesses at the accused persons place.

Whereby according to them the prosecution witnesses found the accused person with cow's meat and not bushbuck meat.

I have considered the merits 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 the prosecution witnesses went to the accused home and they found some meat. While the prosecution side claims it was bushbuck meat, the defence side claims it was cows meat.

Now the sub issue here is whether the meat found at the accused person's house was bushbuck meat or cows meat. Exhibit P1, which was tendered by pw2, states the same as being bushbuck meat pw2, is an expert officer to wit a district game officer, whose duty among others is to do identity wild meat.

And since the evidence of an expert witness is dismissible in court we have no option than to admit the same, thus pw2's testimony supports that of pw1, pw3 and pw4.

In the case of **Repulic v. Kerstin Cameron (2003) TLR 84** it was held that

- i. The accused can only be convicted of the offence on the basis of the strength of the prosecution case and not on the basis of the weakness of the defence case.
- ii. When an accused is charged with an offence his or her guilt is not established or proved if the explanation he or she offers is one wghich is reasonable and might possibly be true even if the court is not convinced that it is infact true.
- iii. ....
- iv. More weight ought to be given or attached to the evidence given of people's acts than their alleged words which are easily mistaken or misinterpreted.
- v. The duty of an expert is to furnish the court with the necessary scientific criteria for testing the accuracy of their conclusions so as to enable to

form its own independent judgment by the application of these criteria to the facts proven in evidence.

- vi. Since the evidence of an expert is likely to carry more weight than that of an ordinary witness his or her stands of accuracy and objectivity are required from him . An expert should provide independent assistance to the court by way of objectivity unbiased opininon in relation to the matter within his expertise and should not assume the role of an advocate.
- vii. Special skill is not confined to knowledge acquired academically but includes also skill acquired by practical experience.

This means the court is allowed to consider expert evidence, provided that in the end it could help the court to reach in its own independent judgment.

Looking into PW1, PW3 and PW4's testimony, they explained what they saw verbally but PW2 supported their testimony through tendering exhibit P1 which proved that the accused was found with wild meat/ government trophy/bushbuck meeat and so the answer is the meat found at the accused's home was infact that of a bushbuck animal, which is a government trophy.

To sum up, I hereby find that the prosecution side has managed to prove their case beyond any reasonable doubt, I thus convict the accused person as charged.

It is so ordered.

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

Court: judgment delivered this 6/4/2016 in the presence of the accused, pp, Nnko and clerk Mlingwa.

S.B.Fimbo –SRM

6/4/2016

Pp: no previous criminal evictions.

Mitigation: I pray for leniency as I have five children and one wife I have enough dependents.

Sentence ;

I have considered the accused mitigation statement and Do hereby convict him to a fine of tsh 2,808,000 or 5 years imprisonment in default.

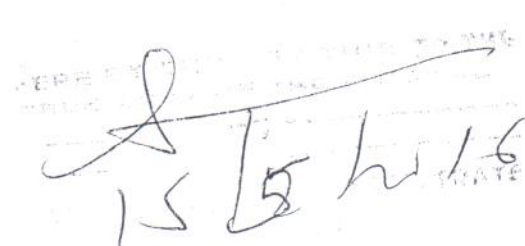
S.B.Fimbo –SRM

6/4/2016

R/A fully explained

S.B.Fimbo –SRM

6/4/2016

A handwritten signature in black ink, followed by the date '15/5/16' written in a similar style. The signature is somewhat stylized and difficult to decipher.