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THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE COURT OF KAMPALA AT BUGANDA ROAD
CRIMINAL CASE NO. 1307 OF 2019

UGANDA:..... PROSECUTOR

VERSUS

AKELLO PEACE AND 2 OTHERS :..... ACCUSED.

JUDGMENT BEFORE HER WORSHIP AYO MIRIAM E.OKELLO
CHIEF MAGISTRATE

Akello Peace stand charged with 6 Counts of unlawful possession of protected species contrary to section 36(1) and 75(1) (b) of the Uganda Wildlife Act 2019.

It is the Prosecution case that Akello Peace on the 13th/11/2019 at Gulu Main Market in Gulu Municipality had in her possession, 7 Blue Duikers skin, 2 Savanna cut skin, 2 Janet cat skin, 1 Genet cut skin, 1 Nile Crockdile skin and 1 Ugandan Kob skin without any valid wildlife Use Right.

The burden of proof on accused guilt lies with the prosecution. Accused bears no burden to prove their innocence. She is presumed innocent until proven otherwise.

The standard of proof has always remained beyond reasonable doubt.

To secure a conviction, the state must prove the following.

1. The said skin belongs to the protected wild animal spices.
2. Accused was in possession
3. Accused had no valid wildlife use Right/Licence.

1. Whether the said skin belonged to the protected wild animal species and accused was in possession.

PW IV Sgt Makubo Abudallah the expert who examined the skins and horn. He found that all the species that is to say the Blue Duiker, Savannah Cat, Genet

Cat, Serual cat, mile crocodile and Ugandan Kob were sport hunted animal. And they fall under the protected wild animal species. The said skins and horn was exhibited in Court and there is no doubt that they belong to protected wild animal species.

2. Whether accused was in possession.

PWI D/C Okello Geoffrey testified that he got information that someone was selling skins of leopard. So they moved to Gulu main market where they recovered an assorted skins and horn from accused still. PWII pointed a finger to the accused that she was the one who removed the skin from her stall. It was parked in a sack. Accused was the one keeping the sack.

Accused in her defence denied possession of the said exhibits. She contends that the exhibit were in the corridor next to the stall where she was sitted taking tea. But PWIII P.C Agola testified that accused picked the exhibit from the stall where she immediately carried away from her.

Prosecution led evidence to show that the accused was in possession of the said exhibit. The convicts A2 and A3 wanted money to go and pick the same from accused. Accused does not deny being at the scene. Where the exhibits were recovered.

She was coordinating the movements of the two convicts, accused was the custodian and therefore equally place at the scene.

Having evaluated the evidence adduced, I am satisfied that accused was found in possession of the said exhibits without any valid wildlife use right. I find her guilty as charged on all the 6 counts and convict her accordingly.

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Sgd: **Ayo Miriam E. Okello**
Chief Magistrate
18th /02/2021

18/02/2021

Accused in Court

Akello for state

Andrew Counsel for accused

Pamela Clerk.

Court: Judgment read in open Court.

Respond:

No previous record. She wasted Courts time. The offence is rampant in nature. The dealt in some of endangered species, all these animals lost their life and was selling the skin in open market. She did not have a licence. This has been accused's businesses and has to reform. I pray for a deterrent sentence befitting the convict. I pray for a custodial sentence.

I pray for order handing over the exhibits.

Mitigation:

The convict is a first offender and a mother to 5 kids. The last one is 1 year and 7 months. She has been a sole breadwinner.

The convict is minded by the culture where the skin was used for cultural decision. She prays for 2nd chance. She is remorseful. I pray she is given a chance.

SENTENCE:

Accused is first offender. She has been operating the business for her personal gain. She should change into better business.

I have considered the prayers in mitigation and that of the defence. I am mindful that the convict appeared in Court with a young baby. She needs to keep her baby.

In the premises therefore I sentence them to 6 months imprisonment or pay a fine Shs 100,000/= on each Count. That is to say 600,000/=.

Sentences to run concurrently but fine cumulatively.

.....*M Okello*.....
Sgd: Ayo Miriam E. Okello
Chief Magistrate
18th /02/2021