

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE COURT OF KAMPALA AT BUGANDA ROAD
CRIMINAL CASE NO. 0724 OF 2020

UGANDA:: PROSECUTOR

VERSUS

BULEME KISANDU AND ANOTHER ::::::::::::::

ACCUSED.

JUDGMENT BEFORE HER WORSHIP AYO MIRIAM E.OKELLO

CHIEF MAGISTRATE

The 2 accused Buleme Kisandu (A1) and Kule Isiah are charged with 6 Counts of which are unlawful possession of protected species contrary to section 36(1) and 71(b) Uganda Wildlife Authority and entering wildlife protected area without permission contrary to section 30(1) and 70(a) Uganda Wildlife Authority.

The particulars are that the two accused persons on 24th/07/2030 at Royal Circuit Truck and Queens mile in Kasese District entered into queen Elizabeth National Park wildlife protected area without permission and while in the park they had in their possession water buck, two pieces of Hippo teeth and slan water buck meat, and one dry ear of Bufallo without a valid wildlife Use right. They denied all the charges.

An accused's presumption of innocence is paramount. It is the prosecution duty to prove beyond reasonable doubt that the accused committed the offence. An accused bears no burden of proving his innocence. Accused kept quite.

To secure a conviction the prosecution must prove the following ingredients.

1. That there was protected species involved.
2. There was an illegal entry in the park.
3. Accused were in possession of protected species without any licence.

1st Ingredient: whether the items mentioned fall under the protected species.

Section 1 of the act provides for what protected species are. PWII Dr. Lodwig the expert who examined the exhibits confirmed to Court that they were wildlife protected species. These were the dry ears and foot of a buffalo, the Hyena skull, skull of a warthog, and Hippo teeth.

Accused did not contest these exhibits. I find this ingredient proved beyond reasonable doubt.

Whether the accused were in possession.

Possession according to section 1 of Uganda Wildlife Authority means having ownership, custody or control of an item coupled with intentions to possess from. The evidence of the four prosecution witness. There is overwhelming proof that the two accused were in the park without any permission. PW1 testified that he got information at 6:45 am. That some people were in the park. They moved to the scene and found an animal killed. They continued following the foot path and found the accused resting under a tree. The photos of the exhibit and the accused person were taken and exhibited in Court by PWIII the S.O.C.O.

There is sufficient proof that the 2 were in possession of the exhibits.

I have evaluated the evidence and addressed my mind to the law a, I am not in doubt that the accused were in the park without any authority. They unlawfully killed the animals just to satisfy their selfish interest. I find them guilty and convict them on all Counts.

.....*Mokell*.....
Sgd: Ayo Miriam E. Okello
Chief Magistrate
27th /01/2021

27th/01/2021

2 accused in Court

Jamima State

Andrew Counsel for accused

Liz Clerk

Court: Judgment read in Open Court.

Respond: I pray for a severe sentence.

Mitigation:

The Convicts are first offenders who had pleaded guilty to Court. AI and AIII. They deserve a second chance. The convicts explained the circumstances which led them to the commission of the offence.

The convicts assured me that they will tell the community that gave meat is not the source of meat.

I pray the period spent on remand is sufficient.

I so pray.

SENTENCE:

Both accused are 1st offenders. They have prayed for a 2nd chance. The convicts were illegally found in the park and not only one animal was killed but various species. These they did to satisfy their need. The offence is rampant and the convict should be able to tell other/would be offenders to stop it.

I have considered the time spent on remand since August 2020.

I therefore find a sentence of 6 Months on each Count appropriate or they pay a fine of Shs 200,000/= on each Count.

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Sgd: Ayo Miriam E. Okello
Chief Magistrate
27th /01/2021

Court: Right of appeal explained.

.....*Mpuli*.....
Sgd: Ayo Miriam E. Okello
Chief Magistrate
27th /01/2021

Court: Sentences to run concurrently while fine cumulatively.