

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE COURT OF KAMPALA AT BUGANDA ROAD
CRIMINAL CASE NO. 01089 OF 2020

UGANDA:..... PROSECUTOR

VERSUS

KAGODI ALEX AND ANOR

:.....:

ACCUSED.

JUDGMENT BEFORE HER WORSHIP AYO MIRIAM E.OKELLO

CHIEF MAGISTRATE

Kadogo Alex and Muhereza alex are both charged with three Counts of unlawful possession of protected species contrary to section 36(1) and 71(1) (b) Uganda Wildlife Authority.

The particulars of the offence are that the two accused on 28th/10/2020 at Rutooke Town Council in Mitooma District had in their possession three pieces of elephant Ivory, 2 pieces of Hippopotamus teeth and 4 Kgs of Pangoline scales without a valid wildlife Use Right.

The accused persons are presumed innocent until proven guilty by the prosecution. The prosecution bears the burden of proving their guilty and standard is always beyond reasonable doubt.

The prosecution must prove each and every one of the following ingredients.

1. That the ivory, Hippo teeth and Pangolin scales belong to the protected species.
2. Accused were in possession.
3. They had no valid wildlife Use Right.

1st ingredient: whether the specimen belonged to the animal categorized as protected species:

The expert witness examined the Ivory, Hippo teeth and the Pangolin scales and she concluded that the specimens belonged to the elephant,



Hippopotamus and Pangolin all these animals fall under the category listed. In the 3rd schedule. They are protected. The species were also exhibited in Court. I am not in doubt that this ingredient has been proved.

That the accused were in possession and had no valid licence.

PW1 the Police Officer attached to Bushenyi testified that they arrested the two accused while moving on a boda. That they had a white sack covering in a box containing the said exhibits. That A2 carried the exhibits.

The exhibits recovered were 4 pieces of elephant ivory.

Two pieces of Hippo teeth.

4 Kgs of Pangolin scales.

A1 Kadogo Alex in his defence denied the offence and contends that he was just hired. As a Boda Ridder he took A2 and another passenger, they were stopped by Police that was when the 2nd passenger took off.

A2 does not deny the fact that A1 was a Boda ridder. That he told him to take him to the hospital that they found the 2nd passenger on way and he had in his possession a sack.

I have carefully evaluated the evidence of the witnesses on record and the defence evidence. There is no doubt that both accused were on the same bicycle and that A1 was a Boda Ridder. A2 knew what was happening. He was the one carrying the language and remained in possession. I believed A1 testimony when he told Court that he was doing his business of Boda Ridder. A2 instructed on where to go. I therefore find that he honestly did his job and took the passenger to the destination he wanted to go. I find him not guilty and acquit him on all Counts. A2 was squarely placed on the scene. I find him guilty and convict him on all the 3 Counts.

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M. Okello
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Sgd: Ayo Miriam E. Okello
Chief Magistrate
21st /04/2021

21/04/2021

2 accused in Court

Winnie State

Andrew for accused

Liz Clerk.

Pros: For judgment.

Court: Judgment read in Court.

Respond:

No previous record. The convict has been on remand since October 2020. I pray court takes into account the area of commission of the offence that is to say Bushenyi. We pray Court takes into account the contribution of tourism. I pray for reformatory sentence.

We pray for an order handing over the exhibits for further management.

Mitigation:

The convict is a first offender. I pray for leniency. We pray he is given a chance to go out and lead a better life.

SENTENCE:

The convict is a first offender. He has prayed for leniency. He is advised to engage into other business and leave this unlawful act.

I have considered the time the convict has spent on remand and the submissions of both the state and the defence. I am mindful of the maximum sentence the offence carries.

As a first offender, the convict is given chance to reform by sentencing him to 12 Months Imprisonment on Count 1, 2 and 3.

Sentences run concurrently.

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Sgd: Ayo Miriam E. Okello
Chief Magistrate
21st /04/2021