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THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATE COURT OF KAMPALA AT BUGANDA ROAD

CRIMINAL CASE NO. 0822 OF 2020

UGANDA:: PROSECUTOR

VERSUS

KERMIT HANNINGTON :::::::::::: ACCUSED.

JUDGMENT BEFORE HER WORSHIP AYO MIRIAM E.OKELLO

CHIEF MAGISTRATE

Kermit Hannington is charged with 2 Counts of Unlawful possession of protected spices Contrary to section 36(1) 70(a) of Uganda Wildlife Authority.

The Prosecution contends that Hannington on 27th/08/2020 at Panji Mesi Village in Nebbi District had in his possession 3 pieces of elephant ivory and 30 pieces of Hippo Teeth without a valid wildlife Use Right.

Accused denied the charge and the state in an effort to prove their case relied on the evidence of 4 witnesses.

The prosecution to succeed must prove the following ingredients.

1. That the ivory and Hippo teeth are protected spices.

2. Accused was in possession.

3. Accused had no valid wildlife Use Right.

Court admitted as Prosecution Exhibit the following . 3 elephant Ivory and 30 Pieces of Hippo teeth.

First ingredient:

Sgt Major Harriet Twinamasko who examined the exhibits confirmed to Court that they were specimens of .... Elephant Ivory and Hippo teeth. That they all fall under the category of protected species. Section 34 provides the list of the

protected species under the 3rd schedule. I am not in doubt that the ingredient has been proved.

2nd ingredient: Whether accused was in possession.

All the three witnesses PW1, II and III gave evidence that accused was arrested at the check point. PWII Moses Logel told Court that he knew accused and he had ivory so he wanted a buyer. The drove to Pakwach and he facilitated accused to get the exhibit after getting them he brought him to the check point where he was arrested.

Accused knew Stephen and Moses. They all met in Pakwach. He alleged he was drunk so he was given item which he just put in the car. He entered the car because he wanted transport back. Accused admits he went with Moses to pick the exhibits and came back together.

Accused does not deny being at the scene but alleges he was drunk. Accused ought to have excused himself if he did not know where he was going. I find this a total lie.

Accused was aware and he is the one who was looking for the market. He had the exhibit. He was in possession. I find him responsible for the same.

3rd Ingredient Whether he had a valid Wildlife Use Right.

There is nothing to show or mention by accused in that regard. He was dealing in this trade illegally.

I find him guilty and convict him on both Counts.

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Sgd: Ayo Miriam E. Okello
Chief Magistrate
24th /03/2021

24/03/2021

Accused in Court.

Akello G for state

Andrew Counsel for accused

Liz Clerk

Flavia Alur Intepreter.

Respond:

No past record. The offence is rampant in the jurisdiction. The species the convict had is on the verge of extinction. These are species that determine the tourism destination.

The convict's act has made the country to lose revenue. The convict comes from Nebbi. I pray for a deterrent sentence that will enable the convict reform.

I so pray.

Mitigation:

The convict is a first offender. The convict is remorseful. I pray he is given a second chance. He is a first offender. I so pray.

SENTENCE:

Accused is a first offender who took Court a full trial. The convict knew he had the exhibit and he looked for the buyer. He should desist from this trade. I have considered the submissions/prayer of both the state for a deterrent sentence that of and that of the defence for leniency, I have also taken into account the time the convict has spent on remand since September 2020.

I therefore find a sentence of 2 years imprisonment appropriate in the alternative pays a fine of Shs 1 million on each Count.

Sentences to run concurrently.

Fine cumulatively.

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Sgd: Ayo Miriam E. Okello
Chief Magistrate
24th /03/2021