

**THE REPUBLIC OF UGANDA**  
**IN THE CHIEF MAGISTRATE COURT OF KAMPALA AT BUGANDA ROAD**  
**CRIMINAL CASE NO. 0678 OF 2020**

**UGANDA:..... PROSECUTOR**

**VERSUS**

**MAKOMA PHILLIP**

:.....:

**ACCUSED.**

**JUDGMENT BEFORE HER WORSHIP AYO MIRIAM E.OKELLO**

**CHIEF MAGISTRATE**

Makoma Phillip is charged with unlawful possession of protected species contrary to section 36(1) 71(1) (b) Uganda Wildlife Authority.

It is the prosecution case that Makoma Phillip on 20<sup>th</sup>/07/2020 at Trust Bar and Lodges in Ntungamo town in Ntungamo District had in his possession two pieces of elephant tusks valued at 26,265,000/= without a valid wildlife Use Right.

Accused denied the charge and the burden to prove his guilt remained with the prosecution since he is always presumed innocent until proven otherwise. The standard of proof is always beyond reasonable doubt.

The prosecution must prove the following;

1. That the ivory falls in categories of protected species.
2. Accused had the said ivory /possession.
3. Accused had no valid wildlife Use Right.

**1<sup>st</sup> ingredient; whether there was a protected species involved.**

PWII Sgt Major Twinamatsiko, the wildlife identification expert examined the exhibit/species. These were 2 pieces of ivory. She concluded that they were elephant Ivory and elephant are amongst the protected species under section

34 3<sup>rd</sup> schedule. The ivory was exhibited. I am convinced that this was a protected species.

**2<sup>nd</sup> ingredient: Whether the accused is in possession and had no licence.**

PW1 D.C Mwesigye testified that he arrested accused who had in his possession 2 pieces of ivory parked in a sack. Accused was found at trust bar and Lodge in Ntungamo.

PW1's evidence was corroborated by that of PWIII who accompanied PW1 to arrest and recover the exhibits. P.EXII.

Accused in his defence does not deny being found in Ntungamo that he had gone to send mobile money. He testified does not deny seeing the Ivory in front of him. The prosecution witnesses arrested the accused at 8Pm in a hotel. He had in his possession the 2 pieces. The evidence adduced places the accused at the scene. I am not convinced with his defence. He did not just see the exhibit but he was in possession looking for a market. Accused did not have any valid Wildlife Use Right.

I find the burden set on the prosecution to prove beyond reasonable doubt that accused had no valid licence and was in possession of ivory proved.

I find him guilty and convict him accordingly.

.....MOELLE.....  
**Sgd: Ayo Miriam E. Okello**  
**Chief Magistrate**  
**24<sup>th</sup> /03/2021**

**24<sup>th</sup>/03/2021**

Accused in Court

Guloba State

Andrew Counsel for accused

Liz Court Clerk.

**Court:** Judgment read in Court.

**Respond:**

No past criminal record, the offence of such nature is rampant. We pray for a deterrent sentence to enable accused learn.

I pray for the exhibits to be handed over to Executive Director Uganda Wild Life Authority.

**Mitigation:**

The convict is a first offender. The convict was a farmer. I pray for a second chance to fend for his wife and children.

**SENTENCE:**

The convict is a first offender. He has played for leniency. The convict should remain a farmer and not divert to unlawful business. I have considered the prayer of state and the defence. I have also taken note of the time spent on remand.

I therefore sentence accused to 12 months imprisonment start to run from the date he was admitted on remand.

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*M Okello*  
.....  
**Sgd: Ayo Miriam E. Okello**  
**Chief Magistrate**  
**24<sup>th</sup> /03/2021**

Let the five pieces of ivory be handed over to Executive Director Uganda Wildlife Authority for further Management.

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**Sgd: Ayo Miriam E. Okello**  
**Chief Magistrate**  
**24<sup>th</sup> /03/2021**

Right of appeal explained.

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**Sgd: Ayo Miriam E. Okello**  
**Chief Magistrate**  
**24<sup>th</sup> /03/2021**