

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATE'S COURT OF KAMPALA AT BUGANDA ROAD

CRIMINAL OFFENCE NO.0012-2021

UGANDA

.....

PROSECUTION

VERSUS

TUMUSIIME DONOZIO

.....

ACCUSED

PROCEEDINGS

7/1/2021

Accused in court.

Andrew –counsel for accused.

Gulubo S. state

Elizabeth –court clerk.

Niwagaba interpreter

Court: Charge read and explained to accused in runyankole.

Accused pleads: Not true. Plea of not guilty entered.

Prosecution: Inquiries are complete.

Court: Right of bail extended. No surety.

Hearing fixed for 27/1/2021.

Accused remanded.

Sgd

Ayo Miriam E. Okello

Chief Magistrate

27/1/2021

Accused present

Akello –state

Andrew –Counsel for accused.

Liz –court clerk.

Muhindo B. interpreter

Prosecution: One witness in court.

PW1: Christian sworn, **Natukunda Nice**, 29 years. Resident of Kyebando, Kawempe, Kampala, investigator with UWA. I know the accused. I interacted with him. I talked to the accused last year on phone. On 5/12/2020, I met accused in Kyegegwa District. They were in a Noah Vehicle Reg. No. UES 553T. We discussed with accused. He was to transact over the sale. My role was to get a buyer. Accused had elephant teeth. We agreed on the price at 2,800,000/= to pay off the drive. The total amount agreed on the payment. We disagreed on the payment. He disagreed on the amount and I left. Later accused agreed to come where I was and hand over the ivory. The ivory was in a sack. Accused was arrested in the process of weighing the ivory by the police officer. The ivory was old and dirty. There was a weighing scale. Its big teeth and 9 small teeth. There were in a sack.

Exhibited are:

11 big elephant teeth.

7 small elephant teeth marked with letter "H"

One weighing scale.

Court: 11 big elephant teeth. 7 small one

1 weighing scale are marked P.ID I.

Sgd

Ayo Miriam E. Okello

Chief Magistrate

I was with accused for about 3 hours. My source gave me. Accused content.

Counsel for accused: I first interacted with accused on 20/11/2020. On my source's phone. I would not be wrong if I took it that the personal phone for accused was a afterthought.

I saw the exhibits on 5/12/2020.

I saw the exhibits.

There were 3 persons. One was a driver.

Gordon is the source.

Re-examination: I saw the accused with the exhibit.

I met the accused 2 times.

Court: Hearing adjourned to 10/2/2021

Accused further remanded.

Sgd

Ayo Miriam E. Okello

Chief Magistrate

10/2/2021

Accused in court.

Akello –state

Andrew –counsel for accused.

Pamela –court clerk

Prosecution: 2 witnesses.

PWII: Christian sworn

Nahamya Ashap, 33years. Attached to UWA an intelligence officer. I know the accused while at work on 4/12/2020. I received information that accused had in possession ivory for sale. I went to the scene. Accused were on a motorcycle. Accused was carrying a sack when they opened the sack we found elephant teeth. Accused told me he was going to sell them at Kyengera. Accused was arrested and taken to the police station. PW1, myself and on lieutenant. There were 11 big elephant teeth and 8 small piece. They looked old and dirty. The accused was victim transferred to Kibuli.

Counsel for accused;

- Accused used a motorcycle.
- I was with PW1.
- The rider of the motorcycle did not participate in the bargain.
- Accused did not tell me the source where he got from the teeth were old and dirty.

PWIII: Christian

Sgt Twinamatsiko Harriet.

Court: Accused further remanded to 24/2/2021 for hearing.

Sgd

Ayo Miriam E. Okello

Chief Magistrate

24/2/2021

Accused in court.

Andrew –counsel for accused.

Akello G. –state

Liz –court

Prosecution: Two witnesses

PWIII: Christian sworn

D/Sgt Sanyu Arch angel aged 49 years.

Resident of Kyegegwa, I know the accused on 5/12/2020. Accused was brought by UWA official. I am a store man. I received the exhibits. There were 19 elephant teeth ivory. 11 were big ones and 8 small ones. I exhibited them and put them in stores after marking them E.1.

Court: 19 pieces of elephant teeth admitted together with the slip dated 05/12/2020 and marked P.G1.

Sgd

Ayo Miriam E. Okello

Chief Magistrate

Counsel for accused: Nil

PW4: Christian sworn

Sgt Major Twinamasiko Harriet UWA expert.

Court: Hearing adjourned to 10/3/2021

Sgd

Ayo Miriam E. Okello

Chief Magistrate

10/3/2021

Accused in court.

Gladys –state

Andrew –counsel for accused.

Prosecution: One witness.

PWIV: Christian sworn

Sgt Major Twinamatsiko Harriet aged 31 years.

Resident of Kyebando attached to UWA Headquarter.

- Wildlife identification expert
- Certificate in Detection in illegal wildlife.
- Post graduate diploma in wild life management.
- B/A in Agriculture.
- Worked for 8 years with UWA.
- I examined and identified the exhibit. I wrote a report. I examined 18 pieces of elephant molars. I found they were elephant teeth. I marked them H1-H18. They were from 2 elephants. I wrote an expert report that I submitted to CPS, Kampala. I signed.

Counsel for accused: No objection.

Court: Expert reported dated 15/2/2020 admitted and marked as P.EIII.

Sgd

Ayo Miriam E. Okello

Chief Magistrate

Cross examination: The molars were kept not fresh.

Prosecution: Closes its case.

Court: Prosecution evidence adduce. I find a prima facie raised against the accused.

Put on defence hearing on 24/3/2021.

Sgd

Ayo Miriam E. Okello

Chief Magistrate

24/3/2021

Accused in court.

Andrew –Counsel for accused.

Gladys –state

Liz – court clerk.

Prosecution: Its for defence.

Counsel for accused: Accused intends to change plea.

Court: charge read and explained to accused in runyankole.

Accused pleads: its true. Plea of guilty entered.

Brief facts:

On 5/12/2020 at Apunyo village, Kyegegwa District, accused was arrested by a team of Detectives attached to Kyegegwa Police in possession of elephant molars while looking for market. He was taken to police and charged accordingly. The exhibits were duly in court and the report also on record.

Accused: Facts are correct.

Court: Accused is convicted on his own plea of guilty.

Record: The convict is a first offender however the offence is rampant in nature. It concerns elephant. There were jaws of elephant. It led to elephant lost its life. This place is a habitant for elephant. There is need for the convict to learn. The convict should the jaw. Evidence the ivory is someone hidden. I pray for deterrent sentence. I pray the exhibits are handed over to Executive Director, UWA.

Mitigation: The convict is a first offender. It's not everything that a farmer gets molars of elephants lying in his garden. The evidence does not disclose that accused was in possession of ivory. He is a man of advanced age with family responsibility. He is spent 3 months on remand. He is reflected on his action. The exhibits are old. I propose a non-custodial sentence. I so pray.

Sentence: The convict is a first offender. He is remorseful. The exhibits were elephant molars. It's not clear whether convict participated in the killing of the elephant. He collected the molar. As a first offender, and having considered that the time spent on remand. The convict is sentenced to 2 years imprisonment or pay a fine of 1,000,000/=.

Sgd *M Okello*

Ayo Miriam E. Okello

Chief Magistrate

Court: Let the elephant jaws be handed over to Executive Director UWA for further management.

Sgd *M Okello*

Ayo Miriam E. Okello

Chief Magistrate

24/3/2021