

THE REPUBLIC OF UGANDA  
IN THE CHIEF MAGISTRATE'S COURT OF BUSHENYI AT NDEKYE.  
BUS-24-CR-CO-0133 OF 2017 CRB 374 OF 2017.

UGANDA ::PROSECUTOR.

VS

A1.TIBAKYENGA JOSEPH  
A2.BYAKWATE GEOFFREY } :::::::::::::::::::::: ACCUSED.  
A3.MBAREBAKI KIMONDO

JUDGMENT READ AND DELIVERED BY H/W BBOSA MICHAEL  
MAGISTRATE GRADE ONE ON 12<sup>TH</sup>/JULY/2017.

The accused persons were charged with two counts of unlawful possession of wildlife protected species C/S 75(a) and 75 (b) as well as unlawful possession of devices capable of injuring and killing wildlife protected species c/s 49 (a) and 75 (d) Cap 200. It was alleged that on 12/April/2017, the accused persons and others still at large at Kagogo village in Rubirizi district were found in possession of buffalo meat as well spears, pangas, and wire snares capable of injuring wild life protected species.

At the hearing, the prosecution called two witnesses to testify in their case while the three accused persons who called no witness elected to keep silent. For the prosecution- Counsel Patrick Bushendich appeared while the defence appeared on its own.

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According to the prosecution the two witnesses, one Kirunda James game ranger at Queen Elizabeth National Park testified to have been on patrol on 13/04/2017 at 6: 00 a.m. when they met the accused persons and several other people who ran off at Kagogo Mukoloboza in a wildlife protected area, they were skinning a buffalo.

According to him, when the suspects noticed the presence of the rangers, several of them ran off so only the three suspects were arrested and taken to police together with their tools including three spears, two pangas as well as five wire snares.

These were exhibited in open court together with a picture of the buffalo they were skinning.

The items were allowed into evidence with the exhibit slip but were handed over to Uganda Wildlife Authority for safe custody.

Pw2 one Opoloto Osema aged 39 years UPDF officer attached to Uganda Wildlife Authority at Queen Elizabeth National Park corroborated the evidence of Pw1 saying he was part of the patrol which arrested the three suspects.

Apparently, several people were found skinning a buffalo but only three were arrested as the others ran off.

For their defense, the three suspects elected to keep their silence after court explained to them the three ways in which they can make their defense. It is within their rights.

**Burden of proof.** This is on the prosecution-see **S.101 Evidence Act.**

See Woolmington vs DPP

**Standard of proof** this is beyond reasonable doubt.

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## Issues.

1. Whether the evidence on record is enough to sustain a conviction against the accused persons?
2. Remedies available to the successful party?

## Resolution.

Ingredients unlawful possession of wildlife protected species c/s 75 (b) and 75 (d) of Uganda Wildlife Authority Cap 200.

- a) *Being found –taking, hunting, molesting or reducing into possession of any protected species.*
- b) *Possession of selling, buying, transferring or accepting in transfer specimen of protected species.*


The two witnesses' Pw1 and Pw2 testified to have found the three suspects skinning a buffalo at Makoloboza in a wildlife protected area. With them, the accused persons had tools like three spears, two pangas and five wire snares. This goes without saying that the action of the three suspects squarely falls under s.75 (a) of the Uganda Wildlife Authority Act.

The evidence brought forward by the two prosecution witnesses is impeccable. Accordingly, I am convinced that the three suspects are guilty of unlawful possession of wildlife species c/s 75 (b). ***I therefore convict them of that offence.***

## Count II.

### Ingredients

- Unlawful possession of devices capable of injuring and killing wildlife protected species C/S 49 (a) and 75 (d) S.49 (b) Uganda Wildlife Authority Act.
- For the purpose of hunting, taking of protected species c.t.c
- Possessing poison, trap, net snare e.t.c.

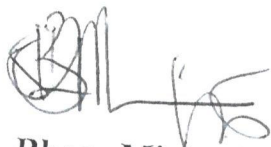
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According to Pw1 and Pw2, the three suspects were arrested with three spears, two pangas and five wire snares, all objects used to trap, hunt and injure wildlife. They were found at Mukoloboza which is within the wild life protected area of Queen Elizabeth national park. This squarely falls with s.49 (b) of the Uganda Wildlife Authority Act as acts prohibited there in.

In fact according to the two witnesses, these people were found skinning a buffalo. The suspects had hence put their tools to purpose.

In my opinion, since the suspects were found with the highlighted tools it is clear that they committed the offence under count II i.e. Unlawful Possession of devices capable of injuring and killing wildlife protected species C/S 49 (a) and 75 (d). no wonder the three suspects put up no defense at all.

*I therefore convict them accordingly.*



Bbosa Michael

Magistrate Grade One

12/July/2017.



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20/10/2021