IN THE HIGH COURT OF TANZANIA

(MTWARA DISTRICT REGISTRY)

AT MTWARA

CRIMINAL APPEAL NO 27 OF 2023

(Originating from Kilwa District Court at Kilwa Masoko in Criminal Case No. 4 of 2020)

ABDULRAHIM SELEMANI HASSAN ..... APPELLANT

VERSUS

THE REPUBLIC..... RESPONDENT

JUDGMENT

17th & 31st July 2023

LALTAIKA, J.

Why would anyone be sent to jail, say for 20 years, for being found with some pieces of meat of, a bush pig? **Of all animals, a bush pig?** Not for **killing an elephant, rhino, or at least a giraffe**? Apparently, our cultural heritage has made a distinction between "superior" and "inferior" animals. However, in environmental law and conservation sciences, this distinction is largely irrelevant.

In this judgement I will explain, in simple language, the concepts of **anthropocentrism** and **biocentrism** in environmental ethics. The aim is to shed some light as to why, in our country, wild animals are protected for their **ecological not social or cultural value**. I will also clarify the **handling of the minimum sentence** of 20 years for lower courts.

The appellant herein, **ABDULRAHIM SELEMANI HASSAN**, was arraigned in the District Court of Kilwa at Masoko charged with unlawful possession of government trophy c/s 86(1) and (2) (d) (iii) of the **Wildlife Conservation Act No 5 of 2019** as amended by Act No 3 of 2013 read together with paragraph 14(d) of the schedule to and section 57(1) and section 60(2) of the Economic and Organized Crimes Control Act Cap 200 RE 2019.

It was the prosecution's story that appellant and another not in this court, on 1/8/2020 at Tingi Bus Station, Kilwa District, Lindi Region were found in unlawful possession of government trophy namely 82 kilograms of bush pig meat valued at TZS 1,946,280 property of the United Republic of Tanzania.

When the charge was read over and explained to the appellant, he denied wrongdoing. The court conducted a full trial. On being convinced that the prosecution case was proved as required, the trial court convicted the appellant and sentenced him to pay a fine of TZS 2,910,420 in case of failure to pay such a fine, serve 10 years in prison.

Needless to say, the appellant is dissatisfied with both conviction and the sentence. He has appealed to this court on seven grounds. Irrespective of the many grammatical and typographical errors I take the liberty to reproduce them hereunder:

1. *That the section 106 of the Wildlife Conservation Act and Section 38(1) of the Criminal Procedure Act were not complied with during the search and seizure of the Government Trophy (bush pig meat).*

2. *That the trial Magistrate erred in law and fact relying on exhibit P2 (seizure certificate) evidence prove that (sic!) the alleged bush pig meat were found with the appellant*
3. *That the trial Magistrate erred in law and fact by convicting and sentencing the appellant basing on the inventory form for disposal of the exhibit but Resident Magistrate of Kilwa Primary Court who did give the order of destruction did not give the evidence testimony.*
4. *That the trial Magistrate Court erred for failure to observe, that the prosecution evidence was basing on incredible, uncorroborated, contradictory and had inconsistence evidence.*
5. *That the lower court erred in law and fact by convicting and sentencing the appellant while the exhibit register was not tendered to prove of (sic!) the said trophy.*
6. *That the prosecution failed to establish chain of custody since the trial Court erred by wrongly convicting the Appellant without considering the principles guiding chain of custody.*
7. *That the trial Magistrate erred in law and fact by convicting the appellant in a case which conducted (sic!) contrary to the law whereby she failed to comply with the mandatory of (sic!) the section 230(1) of the Criminal Procedure Act Cap 20 R.E. 2022.*
8. *That the case against the appellant was not proved beyond reasonable doubt as required by law.*

On the **5th day of July 2023**, the appellant lodged four additional grounds of appeal. For reasons that will be clearer soon, I choose not to reproduce the additional grounds.

When the appeal was called for hearing on the **17th day of July 2023**, the appellant appeared in person, unrepresented. The respondent Republic, on the other hand, enjoyed skillful services **of Mr. Melchior Hurubano,** learned State Attorney. The appellant prayed that the learned State Attorney proceeds with responding to his grounds of appeal. However, he reserved his right to a rejoinder in case the need arose.

Taking the podium, Mr. Hurubano announced boldly that the respondent supported both conviction and the sentence. The learned State Attorney stated that he prayed for the court **to examine the legality of the**

sentence. He explained that the charge was filed under both section 86(1) and (2) and also under section 60(2) of the Economic and Organized Crime Control Act (Supra, which prescribe a punishment of **20 years imprisonment with no option for paying a fine.** He proceeded to respond to the grounds of appeal as summarized in the next paragraphs.

Regarding the first ground of appeal, Mr. Hurubano clarified that the appellant had complained that the officers who arrested him had no search warrant. Mr. Hurubano stated that the respondent's view was that this ground had no merit because the arrest was made in an emergency situation. He pointed out that section **106(1)(b) of the Wildlife Conservation Act** (supra) allows searches without a warrant if they are not conducted in a dwelling house.

Since the appellant was arrested at a bus stand and not in his dwelling house, Mr. Hurubano argued, the search was lawful. He also emphasized that the appellant was not prejudiced, as there was no chance that the items could be planted on him. According to him, all the necessary steps were followed, and there was an independent witness, the Hamlet chairman of TINGI, as shown on page 23 of the proceedings. He concluded by praying that the first ground of appeal be dismissed.

Moving on to the **second ground**, Mr. Hurubano stated that the appellant complained about the lack of issuance of an acknowledgment receipt. He argued that this ground also had no merit, as a seizure certificate was issued, and the appellant signed it, acknowledging that 82 kilograms of bush pig [meat] had been impounded from him. He cited the case of **IDDI**

MCHAFU V. REPUBLIC Crim App No 328 of 2019, where it was held that lack of a receipt is not fatal when the accused signs a certificate of seizure. Therefore, he requested that the second ground be dismissed.

Regarding **the third ground,** which concerned the tendering of the inventory form by OSCID (PW5) instead of the Magistrate who had issued it, Mr. Hurubano argued that this ground had no merit. He pointed out that the law allows an exhibit to be tendered by anyone who has knowledge of it, and PW5 had testified that he was the one who took the exhibit to court for disposal. He also highlighted that the appellant and another individual were present in court when the exhibit was being destroyed, and the appellant did not oppose it. Mr. Hurubano concluded that the appellant did not cross-examine PW5 to express his dissatisfaction, leading him to pray for the dismissal of the third ground.

Regarding the fourth ground, argued together with the first additional ground, the learned State Attorney clarified that the appellant claimed that there was a contradiction in the evidence of the prosecution. Mr. Hurubano maintained that this ground had no merit because the discrepancy in the weight of the meat (ranging from 42 kilograms to 82 kilograms) was minor and did not affect the sentence and conviction.

He clarified further that the sentence was based on the value of the meat, not its size, and there was no contradiction on the value. He also pointed out that PW3, a Wildlife Officer, had established that the meat was 82 kilograms, and according to section 86(4) of the WCA, the content of the valuation certificate is considered ***prima facie*** evidence. Therefore, he

argued that PW3's evidence should be taken into cognizance. While acknowledging the presence of minor contradictions, Mr. Hurubano cited the case of **ISSA HASSAN UKI v. REPUBLIC** Crim App No 129 of 2017 CAT, Mtwara, which stated that minor contradictions that do not go to the root of the case cannot invalidate the sentence.

Mr. Hurubano proceeded to address **the 5th, 6th, and 3rd additional grounds of appeal**, which were related to the complaint on the chain of custody. He stated that in responding to this complaint, he had consulted case laws of the Court of Appeal, which established that a chain of custody did not necessarily need to be proved through documentary evidence. Instead, it was sufficient for the prosecution witnesses (PWs) to establish the chain of custody through their oral evidence.

According to Mr. Hurubano, the Prosecution Witnesses' evidence successfully established the chain of custody. The learned State Attorney asserted that the lower court's records showed that the exhibit was impounded by PW4 from the appellant. PW4 then passed it on to PW6, who acted as the exhibit keeper. Subsequently, PW6 handed it over to PW5, who took the exhibit to court for disposal, and PW5 appeared in court to tender the inventory form (exhibit PE3). Mr. Hurubano concluded that these grounds had no merit, and he prayed for their dismissal.

Regarding the **7th ground of appeal**, which alleged that the trial court failed to comply with sections **230(1) of the Criminal Procedure Act Cap 20 RE 2019**, Mr. Hurubano stated that he chose not to reply to this ground.

He clarified that the cited section of the CPA did not exist, implying that it was a mistaken reference.

In response to the 8th ground of appeal, which was argued together with the 2nd and 4th additional grounds, Mr. Hurubano addressed the claim that the prosecution case was not proved beyond reasonable doubt. He explained that to establish the offence, the prosecution needed to prove two elements:

On the first element, which required proving that **the items impounded were government trophies**, Mr. Hurubano referred to the testimony of PW3, a Wildlife Officer, as recorded on pages 26 and 27 of the proceedings. He argued that PW3 had successfully proven this element beyond reasonable doubt for the following reasons:

Section 86(4) of the WCA states that a trophy valuation certificate issued by the Director of Wildlife, or his officer becomes *prima facie evidence* on its content. Since PW3 had presented a valuation certificate indicating that the meat was from a bush pig, thereby being a government trophy, Mr. Hurubano asserted that this evidence was sufficient to prove the first element.

The learned State Attorney argued further that PW3's testimony on page 27 explained how he discovered 28 pieces of meat and 2 heads of bush pigs, identifying them due to the meat still containing the skin of the bush pig. According to Mr. Hurubano, PW3's explanation further solidified the evidence. Therefore, he concluded that, in his opinion, the first element was proven beyond doubt.

Moving on to the **second element, which required proving that the trophy belonged to the appellant**, Mr. Hurubano stated that the prosecution had successfully proven this element beyond reasonable doubt. He pointed to the testimonies of PW4 (page 35) and PW1 (independent witness) as evidence. PW4 explained how he arrested the appellant and another person while they were attempting to load the meat into a car. The appellant had requested the assistance of the other person to load the consignments in the bus. Additionally, PW1 was present during the appellant's arrest. According to Mr. Hurubano, the testimonies from PW1 and PW4 directly supported the claim that the meat belonged to the appellant.

Mr. Hurubano then referred to the case of **NYERERE NYAGUE v. REPUBLIC** Crim Appeal No 67 of 2010 CAT, Arusha, where the Court of Appeal stated that the best evidence in a criminal trial is a voluntary confession from the accused himself. He highlighted that during the proceedings, the appellant confessed that he was arrested with the meat but argued that it did not belong to him. The appellant claimed that he was transporting it on behalf of someone else who had ordered him to do so.

In light of this confession, Mr. Hurubano contended that the appellant's statement confirmed his possession of the trophy, which was sufficient to prove the charge of "unlawful possession" as opposed to "ownership."

Lastly, Mr. Hurubano reminded the court that the government trophy in question was bush pig meat, which is used for consumption as food. While acknowledging that the law did not authorize using such trophy for food, he referenced the court's opinion in the case of **HUSSEIN KAMTANDE V.**

REPUBLIC, where a distinction was made between a ***Jangili Jirani*** and a ***real jangili.*** Mr. Hurubano argued that the quantity of 82 kilograms exceeded what could be considered for personal consumption, suggesting that the appellant's possession of such a significant amount indicated a different purpose. In conclusion, he prayed for the court to dismiss the appeal in its entirety.

The appellant, on his part, prayed that his written grounds be taken into consideration because they were detailed enough, and if possible, he requested to be set free. He stated that he used to work as a bus conductor and agent for the SWAHILI and TOKYO buses to Dar and Masasi, respectively.

On 1st August 2020 at 8:00 AM, he received a call from an unknown person while he was with his wife. The caller introduced herself as Mama Baraka and mentioned that she obtained his number from his colleague, Husein Mbugila. Mama Baraka wanted to know who was on the shift at the bus stand and informed him that she had a box full of fried fish that needed transportation. He suggested she take the box to his colleague at the bus stand, which she did.

He then called Rashidi, who worked as a conductor for the TOKYO bus, and instructed him to take the box to Masasi. He left his home at 10:00 AM and inquired about who had brought the box. Rashidi explained that Mama Baraka had said it contained fried fish. At 3:00 PM, he received another call from Rashidi, and they tried to upload the boxes. However, they were arrested by the police, who were present with village leaders.

During the arrest, the police asked them to open the box, but he hesitated. Eventually, a police officer tore the box open and found the meat inside. The officer questioned him, asking if the meat looked like fish. He responded that he could call the owner, and when he did, Mama Baraka explained that it was bush pig meat. However, the police officer took the phone and decided not to arrest the owner due to the absence of a female police officer.

He and Rashidi were taken to the police station, where they were asked to sign a piece of paper. The meat was weighed and found to be 42 kilograms. He mentioned that eating pigs was not allowed in his Religion and asserted that he had never been arrested for such an offense before. The magistrate informed him that he had the right to appeal.

Having dispassionately considered the grounds of appeal, arguments by both parties and the lower court's records, I am inclined to clarify a few issues starting with the law and ethics of environmental protection. The area of law responsible for conservation of wildlife resources is known as **Wildlife Law or WL** for short. This is a part of the larger **Environmental Law** family. WL in one form or another, is as old as human civilization. A leading author in the area namely Simon Lyster provides the following useful historical insight:

> *"The use of law **to protect wildlife has existed for centuries.** Forestry conservation laws in Babylon date back to 1900 BC. Akhenaten, King of Egypt, set aside land as a natural reserve in 1370 BC. Emperor Ashoka of India issued a decree in the third century BC which has a particularly contemporary ring about it..."* (See Lyster, Simon ***International Wildlife Law: An Analysis of International Treaties concerned with the conservation of***

wildlife (Cambridge University Press 1993: page xxi emphasis added)

In Tanzania, although customary laws of local communities existed (and still exist to date) that regulate utilization of wildlife, it was not **until 1891 that Wildlife Decrees** were enacted by the German colonial government. These laws "regulated the offtake, the hunting methods and the trade in wildlife, with some endangered species being fully protected." (See ***Wildlife Policy of Tanzania*** 1998 p. 1).

The British later took over from the Germans and proceeded to enact a number of laws including the famous **Fauna Conservation Ordinance** Chapter 302, Laws of Tanganyika. Many of the laws that were enacted after independence of most African countries, reflected their colonial predecessors. **Prof. Hamudi Majamba**, one of Africa's foremost scholars in environmental law with specialization in wildlife law provides the following insights on the Ordinance which is considered the forerunner of wildlife law in our country:

> *"The Fauna Conservation Ordinance was the colonial government's main wildlife management legislation. The Ordinance was enacted with the objective of reflecting the colonial government's "compliance" with the obligations under the international wildlife conservation and management legal instruments it had assented and ratified...Most of the provisions of the Ordinance and the regulations made thereunder were, however, gauged in a manner that ensured that the thriving trade in wild animals and trophies was not unduly affected.* ***It is this wildlife management and conservation set up that was inherited by the independence government of Tanganyika.*** *" See Hamudi* Majamba "Wildlife Trade and the Implementation of CITES in Tanzania" *2000, Uganda Wildlife Society Research Report Series No. 2* p. 5 (Emphasis added)

The instant case falls under the subcategory of ***Wildlife Crimes.*** A universally accepted definition of a wildlife crime does not (yet) exist. However, it can be said that wildlife crimes are a subset of environmental crimes and are generally acts and attempts in contravention of laws, both national and international, protecting wildlife. While some offences may have been a part of the common law, or even customary law and many people know they involve a "prohibited action" such offences must be fully enacted (and clearly defined) to conform to the doctrine of "no crime without law" ***Nullum crimen sine lege*** which is an important tool against arbitrariness in criminal justice.

In countries such as Tanzania where wildlife is defined broadly to include plants, wildlife crimes cover a wide range of offences including those that involve destruction of habitats, illegal entry into a protected area, possession of a weapon in a protected area, possession of a government trophy without a license to mention but a few. Nevertheless, wildlife crimes ***strictu sensu*** (in strict sense) fall under three large umbrellas (categories) namely **illegal hunting (poaching), illegal possession** and **illegal trafficking/trade** in wildlife resources. Illegal possession may include a manufactured trophy and trophies used for traditional ceremonies without registration.

The burden of proof for wildlife crimes *strictu sensu* lies not with the prosecution but the accused person. This does not apply to all wildlife crimes or criminal justice in general. It must be emphasized that this flip side of the well-established principle of criminal law does not apply to all wildlife crimes including, for example, illegal entry into a protected area. To

avoid overapplication of this exception to the general rule, section 100 (1) and (3) of the WCA provides categorically as follows:

> *100.-(1) In any proceedings for the offence of unlawful hunting, killing, or capturing an animal contrary to the provisions of this Act, the burden to prove that the animal was hunted, killed or captured pursuant to, and in accordance with the terms of a licence issued, permit or authority given under this Act* ***shall lie on the person charged.***
>
> *(3) In any proceedings for an offence under section 86 the burden of proof that-*
> *(a) the possession of the Government trophy was lawful;*
> *(b) the sale, purchase or other transaction relating to the Government trophy was lawful;*
> *(c) the accused had assumed possession of the trophy in order to comply with the requirements of sections 85 and 86; or*
> *(d) the trophy is not a Government trophy,*
> ***shall lie on the person charged.*** *(Emphasis added)*

Like other environmental crimes, wildlife crimes are premised on environmental principles and ethics. There are two main school of thought in environmental ethics namely **anthropocentricism** and **biocentrism.** The former is human-centered while the latter is life-centered. Anthropocentricism is rooted in religious teachings that a human being is superior to other creatures and is therefore permitted to subjugate them. I find the following explanation from **Prof. Yan Glazewski** extremely interesting:

> *"This human-centered theory is rooted in the biblical injunction which exhorts humans to subdue the earth and rule over living creatures [Genesis 1:28] ...its proponents argue that the Bible envisages that human have dominion over the natural world and that nothing else is of any intrinsic value or moral importance. The approach allows humans to act as they please with respect to nature provided, they are serving*

> *human nature."* Glazewski, Yan ***Environmental Law*** *in South Africa* (LexisNexis; 2000) p. 6

Biocentrism, on the other hand, is centered on connectedness of life and ecological integrity. This school of thought promotes ecological value of all living things irrespective of their economic or cultural values. The concept of protection of genetic diversity, species, and ecosystem diversity (biodiversity levels) underlies this life-centered ethic. Prof. Glazewski provides:

> *"Biocentrism...maintains that all living things have an inherent worth by virtue of their being members of the earth's community of life. It follows that our duties towards nature do not stem from duties we owe to our fellow humans but are owed to nature independently and in its own right. A biocentric ethic requires that in deciding how to act cognizance must be taken of the potential effect of our actions on all living things."* Glazewski, Yan ***Environmental Law*** (supra) p. 9

Although as a member of the **Convention on International Trade in Endangered Species of Fauna and Flora (CITES) of 1973** (signed in Washington (USA) on 3rd March 1973 and entered into force on 1st July 1975) some species especially those listed in Appendices I and II get more attention, in Tanzania all species enjoy legal protection. Law enforcement officials do not generally care whether an animal killed is a problem animal (pest) or not.

Like some traditional communities that do not generally eat bush meat, the appellant herein testified that due to his religious belief, he does not eat bush pig. Unfortunately, this claim alone is insufficient to exonerate a wildlife crime offender. I will come back to this later on applicability of **the case of Hussein Kamtande**.

As alluded to earlier, I am equally inclined to spend some time on the issue of sentence. The learned State Attorney Mr. Hurubano has opined that the sentence of 10 years imprisonment imposed by the trial court is illegal because the offence attracts a minimum sentence of 20 years imprisonment. As a Court of record, I need to highlight new developments in the law falling squarely on sentencing of wildlife crime offenders.

Apparently, sentencing is a very crucial function of the courts. It is also very delicate and requires careful balancing of a number of factors. The Court of Appeal of Tanzania in **BENARD KAPOJOSYE V. R.** Criminal Appeal No. 411 of 2013 (unreported) clearly stated:

> *"We must point out that, sentiments aside, sentencing has a crucial role to play in the criminal justice system. In sentencing, the court has to balance between aggravating factors, which tend towards increasing the sentence awardable, and mitigating factors, which tend towards exercising leniency. The sentencing court should also balance the particular circumstances of the accused person before it and the society in which the law operates."*

As correctly stated by Mr. Hurubano, the charge was filed under both section 86(1) and (2) and also under section 60(2) of the Economic and Organized Crime Control Act (Supra), which prescribe a punishment of 20 years imprisonment with no option for paying a fine. The learned Magistrate had to abide by the book. It is therefore my finding that the trial court imposed an illegal sentence not recognized by law.

Going forward, learned Magistrate are reminded of new developments in procedure for sentencing under the WCA. The amended **Section 112** of the WCA provides as follows:

> *112.-(1) Where, in any trial for an offence for which a minimum sentence of imprisonment or fine is prescribed, the court is satisfied that having regard to special mitigating factors a sentence of imprisonment or fine of a term or amount, as the case may be, less than the minimum term or amount prescribed should be imposed, the court may*
> *a) N/A*
> *(b) where the trial is before a court other than the High Court,* ***commit the accused for sentence by the High Court with a recommendation for leniency and stating the grounds*** *and the High Court shall thereupon proceed to pass that sentence as it may deem fit.*
> (Emphasis added)

The above procedure applies whenever a magistrate is of the opinion that considering the offence committed (such as hunting of a small game like a rabbit, for a pot rather than commercial purposes) in the light of mitigating factors, the minimum sentence is too high. The rationale is to maintain consistency which is easier to track in the courts of record. I will come back to the illegal sentence in the course of finalizing this judgement.

Coming back to the **grounds of appeal, I will deliberate on the 8th ground** only which centers on the complaint that the prosecution case was not proved beyond reasonable doubt. I am fortified that this ground is capable of disposing of the entire appeal. I must state outrightly that this is one of those rare wildlife crime cases that involved both the police and wildlife professionals so closely in all stages. It is therefore fairly balanced in terms of investigation, evidence handling and prosecution.

The appellant was arraigned in court charged with unlawful possession of government trophy namely 82 kilograms of bush pig meat valued at TZS 1,946,280. Unlike in **KAMTANDE** where this Court insisted on forensic

evidence to prove that the five kilograms of meat purported to be buffalo's meat were indeed buffalo's meat, that argument is irrelevant here. The appellant in the matter at hand was found with 82 kilograms of bush pig meat containing the skin and two heads.

The learned State Attorney argued forcefully on this as he brought to the attention of this court PW3's testimony on page 27 explaining how he discovered **28 pieces of meat and 2 heads of bush pigs, identifying them due to the meat still containing the skin of the bush pig.** Although it is entirely upon the prosecution to package the evidence before attempting to tender it in court, "easily identifiable" parts of wildlife such as skin and elephant tusks would generally not require proof by way of forensic sciences.

I also agree with Mr. Hurubano that the position of this court on Jangili Jirani discussed in **KAMTANDE** does not apply to the matter at hand. The appellant was an urbanite working as a bus conductor in Kilwa. I am also fortified that the amount of bush meat impounded exceeds the threshold of what can be considered hunting for the pot. In the present case, transporting bush meat from Kilwa to Masasi by bus leaves no doubt of all elements of a commercial enterprise.

I have also attended to the appellant's arguments. His other complaints are on purported procedural irregularities that I found to be without merit. Similarly, the claim that there were disparities in the prosecution evidence on the amount of meat impounded is also unhelpful because the value would still exceed TZS 100,000/=

It appears to me that the appellant, like many other young people especially in urban areas, was tempted to look for easier means of **getting rich** or rather **obtaining quick money.** Criminologists agree that **greed** *"tamaa"* is one of the leading causes of crime. The legendary old school *"Zilipendwa"* group **Les Wanyika** (a collection of the finest talents from Tanzania and Kenya since the 1970's) in their all-time hit song ***Ushauri wangu kwa Vijana*** (My advice to the Youth) a song I would hear many times being played in the radio throughout my primary and secondary school years, convey the following clear message to all young people:

Ushauri wangu kwa Vijana
Msifanye mambo kwa pupa
Mjiepeshe na tamaa za dunia aa
Fanyeni mambo kwa mipango sio mbio mbio,
Uwezo wako ni mdogo watamani mambo makubwa
Maovu mengi hufanyika kwa sababu ya tamaa zisizo na mipango.
Ulicho nacho ndiyo chako ujivunie na uridhike nacho.

Wacha ee Wacha ee, Wacha Tamaa Kijana
Tamaa ee mbaya ee ndiyo chanzo cha maovu....

Uwezo wako kimaisha hauruhusu uwe na gari,
Vipi leo watamani uwe na ndege kijana
Uwezo wako ulio nao uwe na mke mmoja
Vipi leo watamani wake saba kwa pamoja.

Wacha ee Wacha ee, Wacha Tamaa Kijana
Tamaa ee mbaya ee ndiyo chanzo cha maovu....

As alluded to earlier, the learned State Attorney prayed that this Court reconsiders the sentence imposed. I have considered the legal position discussed earlier. I have also taken keen interest in the mitigation and aggravating factors recorded by the learned trial Magistrate. The appellant

pleaded with the trial court to be lenient with him mentioning some factors that I consider too sensitive to share here.

More importantly, I have consulted ***The Tanzania Sentencing Manual for Judicial Officers (2003) which***, on page 7 appreciably expounds on this new development in the law related to application of the minimum sentence for wildlife crimes. It is an extremely useful update compared to the previous version (undated). Had the mitigation factors come to my attention in the manner required by section 100 earlier on expounded, I would have given them uttermost consideration and reduced the sentence to 10 which is the sentence imposed by the trial court.

Premised on the above, I dismiss the appeal.

It is so ordered.

THE HIGH COURT OF TANZANIA

Court

E.I. LALTAIKA
JUDGE
31.07.2023

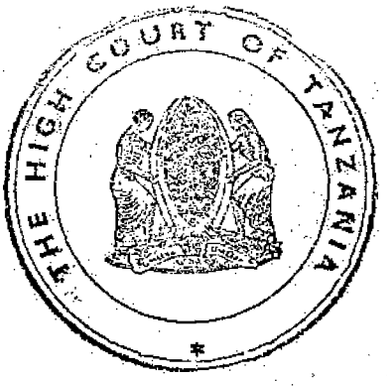
Judgment delivered by my hand and the seal of this Court this 31st day of July 2023 in the presence of Mr. Melchior Hurubano, learned State Attorney and the Appellant who has appeared in person, unrepresented.

THE HIGH COURT OF TANZANIA

E.I. LALTAIKA
JUDGE
31.07.2023

Court

The right to appeal to the Court of Appeal of Tanzania fully explained.



E.E. LALTAIKA
JUDGE
31.07.2023