

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF SHINYANGA
AT SHINYANGA**

CRIMINAL APPEAL NO. 85 OF 2021

(Originating from Shinyanga District Court in Economic Case No. 06 of 2019)

EMMANUEL MAJEBELE @ IBRAHIM.....APPELLANT

VERSUS

THE REPUBLIC.....RESPONDENT

JUDGMENT

8 March, 2022.

A. MATUMA, J:

The appellant was charged and convicted for having been found in possession of government trophies. He was at the end of the day found guilty on his own plea of guilty and sentenced to suffer a custodial sentence of twenty (20) years.

Aggrieved with such conviction and sentence, the appellant appealed to this court with several grounds but I will not reproduce them for the reason to be stated soon herein below.

At the hearing of this appeal, the appellant appeared in person unrepresented while Mr. Jairo learned State Attorney represented the Respondent/ Republic.

The appellant did not have anything to elaborate his grounds of appeal. He ended praying for his grounds of appeal to be considered and be set free.

The learned State Attorney supported the appeal on two grounds. One, that there was no proper identification of the alleged trophies. Two, that the plea of the appellant was equivocal as he qualified the same when he stated on record that those trophies belonged to his grandfather.

I agree with the learned State Attorney that the prosecution facts did not prove the guilty for want of identification of the alleged trophies. On record, there is a letter of "**Katibu Tawala Mkoa**" which was tendered as part of the prosecution facts purporting to identify the trophies.

That letter states that his office in co-operation with "**Mtaalamu wa Wanyama pori**" identified the exhibits as being government trophies. It did not name the alleged "**Mtalamu wa Wanyama pori**" and his qualification so that we are ascertain whether he qualified for identification of Government trophies in terms of section 114(4), 86(4) and 3 of the Wildlife Conservation, Act, No. 5 of 2009.

In the circumstances, there was no facts or evidence to the identification of the alleged government trophies hence the appellant was wrongly convicted.

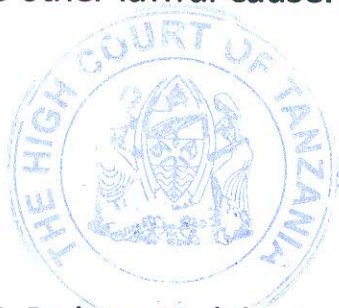
Not only that but also, the Trophy valuation certificate was filled by **Provisional Wildlife officer**. I have not found such a rank or position in the Wildlife Conservation Act. The qualified Wildlife officer for the purposes of identification and valuation of Government trophies must be the one defined under section 3 of the Wildlife conservation Act, supra who is either the Wildlife officer, Wildlife

Warden, and Wildlife ranger engaged for the purpose of enforcing the Wildlife conservation Act. Among those named herein above, the provisional Wildlife officer is not seen.

Not only that but also there was no establishment on the chain of custody from its seizure, to the Regional Administrative secretary and subsequently to the learned State Attorney who finally tendered them in court.

With the herein observations I allow the appeal, quash the appellant's conviction and set aside the custodial sentence of twenty years in each of the two counts.

I order his immediate release from custody unless held for some other lawful cause. Right of appeal explained. It is so ordered.



A. MATUMA
JUDGE
08/3/2022

COURT, Judgment delivered in the presence of the appellant in person and Mr. Jairo learned State Attorney for the Respondent/ Republic.

Sdg. MATUMA
JUDGE
08/3/2022