



## Defence in ivory case targets 'dealing permit'

News - National | 2021-04-30

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ACCUSED ... (From left) Dirk Vermeulen, Edgar Clarke and Michael Lusse speak to their lawyers during their bail application in the Walvis Bay Magistrate's court last year. Photo: Adam Hartman

**THE defence team representing three men accused of the illegal possession of, and dealing in two large elephant tusks worth about N\$104 000, argued that there is no law in Namibia stating that a person is required to get a dealers permit when a permit to possess that product exists.**

Dirk Vermeulen (50), Edgar Clarke (41) and Michael Lusse (60) were arrested at Walvis Bay in 2019 during a sting operation involving the Namibian Police's Protected Resources Unit after they intended to sell the two tusks.

The three accused made their first appearance in the Erongo regional court at Swakopmund this week and maintained their innocence, as they pleaded not guilty during earlier appearances and bail applications in 2019 and 2020 at the Walvis Bay Magistrate's Court before the case was transferred to the regional court.

They have been out on N\$30 000 bail each since then. None of the three had a permit to possess the tusks weighing 33kg, and 31kg respectively.

During the investigation, it came to light that the tusks were trophies from a permitted elephant hunt at Maun in Botswana in 1977, and that their legal owner had moved to South Africa from Namibia in 2012 before he died.

Lusse was asked to keep the tusks for the owner, who would eventually bring them to SA, but after the owner's death, Lusse was stuck with the tusks.

Vermeulen offered to take the tusks as Lusse did not want them any more. Vermeulen and Clarke devised a plan to sell the ivory – leading to their arrest.

They initially offered to sell the tusks for just over N\$2 million (N\$32 000 per kg). The two tusks were valued by the environment ministry at N\$1 625 per kg.

All three accused said they were convinced the tusks were legitimate as certified hunting and possession registration numbers were inscribed on them. They also argued that they had no intention of breaking the law.

A police witness this week maintained that the three men intended to sell ivory on the “black market” while having no permit to possess or to deal in the tusks, which is a contravention of the Controlled Wildlife Products and Trade Act 9 of 2008

Defence team of Ray Rukoro for Vermeulen, Jan Wessels (Carke) and Petrus Strauss (Lusse) argued that the gist of the act was to stop the illegal hunting and smuggling of protected wildlife. They argued that the tusks in questions were from an animal that was officially permitted to be hunted, and officially registered to an owner, and that the inscriptions on the tusks proved that.

The fact that the tusks were legally acquired and were legally possessed, means there was no legal requirement that the three accused should have acquired permits for possession or dealing – and furthermore that there is nowhere in the law that states a permit for dealing with a legally hunted and possessed product is required.

There is, however, a law that requires trading in and manufacturing of protected wildlife products, but this has to do with businesses, which have to have a trading and manufacturing licence, which has to be renewed annually.

For people to have a permit to possess ivory, there is no stipulation to get a dealer’s permit too, while their permit for possession also does not have to be renewed.

The police witness, however, argued that the ownership permits were not in the name of the accused, nor did any of them have a permit to deal in ivory. He argued that the accused should either have informed the environment minister that they had the tusks in their possession and wanted to relinquish them to the state because the owner was deceased and they did not want it; or had they intended to keep it, and sell it, they needed the permission of the minister.

The case continues on 5 May. Swakopmund regional magistrate Gaynor Poulton presided with Tresia Hafeni representing the state.