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Rhino poachers' appeal dismissed in Kimberley High Court

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Three Botswana citizens who after they were found guilty, admitted in an appeal application hearing on Wednesday, 24 April, in the High Court in Kimberley that they illegally crossed the border with illegal ammunition to illegally hunt rhinos on a Northern Cape farm.

An accomplice of theirs died in a shootout with the farm workers and game rangers. In March, acting judge Cordelia Kgopa found they must have foreseen that someone would die during their raid and found them guilty of the murder of K.J. Matshetse, their accomplice. He died in the crossfire.

The applicants, David Mitswi, Khetamile Cooper and Tebo Mogare, disputed that they should have foreseen a deadly confrontation in their unsuccessful appeal application against the murder conviction sentence of ten years. The combined sentence was 12 years on various charges.

'Situation became explosive'

On 9 April 2020, Steven Teleko, a farm worker of the farm Barrange near Severn saw footprints where the poachers lifted the electric fence of the rhino camp and slipped in. These persons tried to erase their tracks. The owner deployed the farm manager and other workers, called the police and the anti-poaching unit of the Tswalu game farm, who arrived by vehicle and helicopter. It was clear from their tracking on the ground that the suspects were following the rhinos.

They then heard a shot go off in the rhino camp.

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Three Botswana citizens admitted that they illegally crossed the border to illegally hunt rhinos on a Northern Cape farm.

Photo: Unsplash/Geronimo

The occupants of the helicopter saw that one of the rhinos had a fresh shoulder wound. The bull still had his horns. The four armed suspects were spotted from the air and those involved on the ground were warned.

Danie Pretorius, owner, and some of the rangers cornered the men, but were obliged to arm themselves because the suspects pointed firearms at them. The farm manager testified that he yelled at them to surrender.

Situation explosive

The situation became explosive. Shots were fired. Everything went quiet. The deceased was found lying on his stomach. A gas pistol was under his body. Mitswi was in possession of a hunting rifle with a silencer, with the serial number removed.

The deceased was shot in a crouching position and had a gunshot wound in the back. The ballistics expert testified that the bullet first went through his backpack and then became unstable.

The police found an axe, panga, roll of foil, and a can of spray oil in the four backpacks. According to an expert who testified, the horn is cut off with the axe, the rhinoceros is hacked on its back with a panga to paralyze it, after which the horn is sprayed with oil and wrapped in foil.

Footprints linked to suspects

The police later positively linked the footprints with the suspects' shoes. Cartridge cases from the suspects' shotgun and other calibres were found on the scene.

Bread, a bottle of water, and a flashlight were discovered in the backpacks on the scene.

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not have clothes or overalls on them.

Adv. R. van Wyk, on behalf of Mitswe and Mogare, argued that the men came in the dark and did not want to be seen. The gas pistol did not have a canister and they only had two bullets. They did not initiate contact with the farmers and wardens. They cannot be held responsible for everything that went wrong.

Adv. Renier Pieterse, on behalf of Cooper, said these men were not aggressive and did not expect violent confrontation. Intent cannot be proven that they could foresee the death of anyone. They did not shoot at the helicopter or the people on the ground. They surrendered when cornered.

Prosecutor adv. J. Rosenberg argued that the men pointed guns at the farmers and game rangers. No-one knew they only had two rounds. If one carries a gun, then violence is anticipated. The applicants hid in the veld and covered their tracks to remain undiscovered. They must have foreseen violence and associated themselves with lethal consequences. The sentence was lenient, as there was a possible sentence of 25 years.

Judge Kgopa found the applicants' arguments compelling, but not substantive enough for another court to come to a different conclusion.

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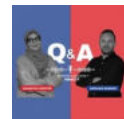
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