

Tanzania: Court Upholds 30-Year Jail Term Imposed On Poacher

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THE Court of Appeal has upheld the 30-year imprisonment sentence imposed on poacher, Ng'waja Serengeta, for unlawful possession of three pieces of elephant tusks valued at 15,000 US dollars (about 34.8m/-), which are government trophies.

Justices Jacobs Mwambegele, Ignas Kitusi and Lucia Kairo ruled against Serengeta, the appellant, after dismissing the appeal he had lodged to oppose the decision of the High Court, which had enhanced the sentence imposed on him by the trial court from five to 20 years imprisonment.

"We therefore find no merit in the appellant's first ground of appeal challenging the legality of the sentence. In the end, the appeal has no merit and it is therefore dismissed in its entirety. It is so ordered," they declared.

During hearing of the appeal, the appellant had contended that the first appellate judge grossly erred in law by enhancing the sentence under the Wildlife Act notwithstanding that he was the first offender, thus would have accorded him a milder sentence under the Economic and Organised Crimes Control Act.

In the judgment delivered recently, the justices noted that the High Court Judge considered the fact that the appellant was the first offender but limited the fact for deciding whether the sentence should be 20 years or 30 years and probably be given an option of paying a fine equal to ten times the value of trophies.

They thought that that is what the appellant had in mind in suggesting that he should have been subjected to a milder sentence under the Economic and Organised Crimes Control Act (EOCCA).



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However, the justices were quick to point out that, according to the Written Laws (Miscellaneous Amendments) Act, No. 3 of 2016 whose section 13 amended section 60 (2) of the EOCCA, it was not the case.

Such provision reads, "Notwithstanding provisions of a different penalty under any other law and subject to subsection (3), a person convicted of corruption or economic offence shall be liable to imprisonment for a term of not less than 20 years but not exceeding 30 years or to both that imprisonment and any other penal measure provided for under this Act; Provided that, where the law imposes penal measures greater than those provided by this Act, the court shall impose such sentence."

The justices pointed out that since the amendments of the EOCCA by Act No. 3 of 2016, and the Wildlife Conservation Act by Act No. 4 of 2016, both of which came into force on July 8, 2016, the law now requires courts to impose a sentence which is higher than any other provided under EOCCA law.

"Our conclusion based on the foregoing, is that on ground of appeal, the appellant has not made a case for our interference with the sentence, despite the fact that he is a first offender," they said.

Before the trial court of Resident Magistrates' Court of Morogoro, the appellant known as Serengeta was charged with one count of being in an unlawful possession of government trophies.

It was alleged that the appellant was found in Malinyi District in Morogoro Region in possession of three pieces of elephant tusks valued at USD 15,000.00 equivalent to 33,454,500/-, the property of the government without a permit.

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