REPUBLIC OF KENYA

IN THE HIGH COURT

AT VOI

CRIMINAL APPEAL No. 93 of 2017

JAMES MAKERE DULLU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Appeal from the Decision of Hon M. Onkoba in the SPM's

Court in Voi delivered on 24th October 2017 in Criminal Case No. 512 of 2016)

J U D G M E N T

1. The Appellant before the Court was convicted on 24th October 2017 of the offence of dealing in a wildlife trophy without a permit contrary to Section 84(1) of the Wildlife Conservation and Management Act, 2013 and sentenced to imprisonment for life. The Appellant filed his Petition of Appeal on 29th November 2017. On the same day he filed a document entitled "Notice of Appeal" but which was in fact an application for leave to appeal out of time. That Notice of Appeal meant that a new appeal file was opened ***High Court Criminal Appeal No 142 of 2017***. The two files were subsequently consolidated, leave was granted and the Appeal was admitted for hearing on 11th July 2018.

2. The proceedings in the Lower Court had two Accused Defendants both of whom were convicted. The Appellant here was the First Accused. The Second Accused, Josephat Mbogo Kinyatta also filed an appeal; ***High Court Criminal Appeal No. 90 of 2017*** . He too was convicted of the offence of dealing in a wildlife trophy without a licence contrary to ***Section 95 of the Wildlife Conservation and Management Act 2013*** and sentenced to imprisonment for a term of 20 years. That Appeal was admitted for Hearing on 15th October 2018. At the request of the Appellants and the Prosecution, the Appeals in ***Criminal Appeal No. 90 and No. 93 of 2017*** were heard together. This Court has considered whether as a consequence a single judgment is called for and has come to the conclusion that may not be the best way forward. The two Appellants were convicted of the same offence, however, the evidence adduced in relation to each and their respective defences were not identical. Their circumstances were not the same and as a consequence they did not receive the same sentence. Their grounds of appeal though similar contain some differences, notwithstanding that the events giving rise to the convictions were the same.

3. James Makere Dullu ("the Appellant) filed his Petition of Appeal on 29th November 2017. Attached was a Memorandum setting out his Grounds of Appeal as follows:

> "*1. That the learned trial magistrate erred in law and fact by failing to consider the prosecution failed to prove their case beyond reasonable doubt c/s 109 and 110 of the evidence act.*
>
> *2. That the learned trial magistrate erred in law and facts by failing to consider the prosecution adduced evidence was inconsistent and contradictory c/s163 (1) (c) of the evidence act.*
>
> *3. That the learned trial magistrate erred in law and facts by failing to consider the conviction and sentence was against the merits of the entire case.*
>
> *4. That the learned trial magistrate erred in law and facts by failing to adequately consider my defence."*.

4. After receiving a certified copy of the proceedings of the Lower Court, the Appellant filed amended grounds of appeal (in ***Criminal Appeal 142 of 2017***) together with his Written Submissions. The Appellant's Amended Grounds are:

> "1. THAT the learned trial magistrate erred in both law and fact in convicting me and sentencing me to life imprisonment without

considering that the charge sheet was defective.

2. That The Learned trial magistrate erred in law and fact by convicting and sentencing me without considering that the key witnesses were not bonded/adduced before court

3. THAT: The learned trial magistrate erred in law and fact by convicting and sentencing me on evidence of being in possession of wildlife trophy without considering that even an inventory list was prepared in wildlife offices at Voi and not on scene of crime.

4. THAT: the learned trial magistrate erred in law and fact by convicting and sentencing me by acting on wrong principles and imposing a harsh sentence.

5. THAT: The learned trial magistrate erred in law and in fact by convicting and sentencing me without considering that I was not dealing with wild life trophy for business but I was acting to link the culprits with KWS officers for exchange of reputation and some agreed amount.

6. THAT: The learned trial magistrate erred in law and fact by convicting and sentencing me without considering that the case had a lot of contradictions.

5. The Court gave directions for the filing of Submissions. The Appellant filed his Submissions on 26th July 2018. Attached to the Submissions were the Amended Grounds set out above. The Respondent filed its Written Submissions on 5th February 2019 and the Appellant then replied with further submissions (entitled Replying Submissions) on 18th February 2020.

6. The Amended Grounds are prefaced by a preamble stating:

> "*Being an appeal against both conviction and sentence of life sentence imposed from a charge of being in possession of wildlife trophy without a permit contrary to section 95 of the wildlife conservation and management Act 2013 and in second count, dealing in wildlife trophy without a licence contrary to section 84 as read with section 92 of the wildlife conservation and management act 2013. In a criminal case file no. 512/016 and judgment dated 24/10/017 by Hon M. ONKOBA SRM'S COURT*"

7. In his Replying Submissions the Appellant reiterates that the following issues for require determination by this Court:

(1) That he was not a perpetrator but an informer

(2) Whether crucial witnesses were called to clear up doubts in the prosecution case

(3) Whether the prosecuting body is legal and the Charge Sheet valid

(4) Whether the Appellant's persistent claims that he was an informer were rebutted?

(5) Whether the sentence imposed is constitutional or whether the Appellant could be rehabilitated.

8. The Appellant firstly argues that the Charge sheet is defective because of the differences between the Charge Sheet and the entry in the Police Occurrence Book on the date of arrest. The argument set out below draws out the dichotomy between the ***Section 95*** Offence and the ***Section 84*** Offence. The Appellant argues that ***Section 95*** provides that; "*Any person who keeps or is found in possession of a wildlife trophy or deals in a wildlife trophy or manufactures any item from a trophy without a permit issued under this Act or exempted in accordance with any other provision of this Act, Commits an offence and shall be liable upon conviction to a fine of not less than one million shillings or imprisonment for a term of not less than five years or both*.

9. It is argued that is the offence contained in the OB and the offence substantiated by the evidence adduced. However, it is not the only offence substantiated. The Appellant seems to be arguing that the Charge Sheet should not have contained Count II. This Court takes judicial notice of the process of preparation of a charge sheet. The Charge Sheet is a product of the work of the investigating body (in this case KWS) and the prosecuting body (in this case ODPP).

10. The Charge Sheet shows that it is stamped and therefore adopted by the Prosecutor. The Charges and the particulars are set out clearly. The Charge Sheet was dated 27th June and is stamped by the Court and the ODPP on the same day. It is linked to O.B. No 06/22/06/2016. It names to Accused (1) James Makre Dullu of Kilifi having ID No 21715048 and Josephat Mbogho Kinyatta of Mbulia. It contains two Charges. Count 1: *" Being in possession of Wildlife Trophy without a permit contrary to section 95 of the Wildlife Conservation and Management Act, 2013. Count II: Dealing in Wildlife Trophy without a licence contrary to Section 84(1) as read with Section 92 of the Wildlife Conservation and Managament (sic) Act, 2013.* The Particulars of the Count I *were that: " 1. JAMES MAKERE DULLU. 2. JOSPEHAT MBOGHO KINYATTA On the 22nd day of June 2016 at around 0030 hours at Mbulia area within Taita Taveta county, jointly with others not before the court, were found in possession of wildlife trophies namely five (elephant tusks weighing 34 kgs without a permit.".* The Particulars of Count II are*: "JAMES MAKERE DULLY. 2. JOSEPHAT MBOGHO KINYATTA. On the 22nd day of June 2016 at around 0039 hours at Mbulia area within Taita Taveta County, jointly with others not before court, you were found dealing in wildlife trophies namely five (5) elephant tusks weighing 34 Kgs without a licence*

11. Subsequently, (in his Replying Submissions), he presented a different reason for the argument that the Charge Sheet was defective. The "defect" relied upon is that the Charge Sheet is entitled "Kenya Police" and the charges contained in the Charge Sheet are different from

what was reported to the Police and entered into the occurrence book at the time of arrest.

12. The Appellant argues thus, "*I submit that I was prosecuted by a non-existing body. Kenya Police Service was terminated by the promulgation of the new constitution in the year 2010 so the charge-sheet bearing the head "KENYA POLICE" is in itself invalid document and ought to be discarded as its maker is not legally recognised.*". The Respondent has not included a response to that submissions in its submissions. However, the Interpretation Section ***(Section 2) of the National Police Act*** provides: "***Kenya Police Service"*** *means the Service established under Article 243 (2)(a) of the Constitution*". In the circumstances use of that title is appropriate and cannot be confusing.

13. Secondly, the Appellant argues that he should not have been found guilty of possession because the inventory list was prepared at the offices of KWS in Voi and not at the scene. This is a surprising argument, given that the Appellant's defence rested squarely on the existence of the tusks and his role as an informer. If there were no tusks there was no information to pass on. The Appellant then goes on to set out that "key witnesses" were not called. Those witnesses are not identified nor is the page of the proceedings where they were first requested highlighted. In Grounds 4 to 6 the Appellant complains that both the conviction and sentence were made arrived at without taking into consideration relevant facts, namely his Defence and as a consequence were made on the wrong principles. The Judgment of the Learned Trial Magistrate states clearly that the Appellant's own evidence corroborated the Prosecution's case. It is also argued that the sentence is therefore excessively harsh.

14. As this is a first appeal, this Court is charged with the duty of re-considering and re-assessing the evidence that was before the trial court and make its own conclusions bearing in mind that it did not have the advantage of observing the demeanour of the witnesses in the course of their testimony. The Appellants have raised numerous challenges to their convictions which are enumerated (fully) above.

15. The Charge Sheet contains two charges. The first was the offence of being in possession of and/or dealing in a wildlife trophy (***Section 95 of the Act***). The Second was the more serious charge of being a dealer in wildlife trophies. The Act provides:

> *84. Dealing in trophies*
>
> *(1) No person shall operate as a trophy dealer without a license issued by the Service.*
>
> *(2) The Cabinet Secretary may grant a trophy dealers' license in accordance with the provisions set out in the Eighth Schedule.*
>
> *95. Offences relating to trophies and trophy dealing*
>
> *Any person who keeps or is found in possession of a wildlife trophy or deals in a wildlife trophy, or manufactures any item from a trophy without a permit issued under this Act or exempted in accordance with any other provision of this Act, commits an offence and shall be liable upon conviction to a fine of not less than one million shillings or imprisonment for a term of not less than five years or to both such imprisonment and fine.*

Clearly the two offences are distinct. The Appellant and his co-accused where charged with both. Section 92 sets out the appropriate sentence in relation to specific animals. It provides:

> "*92. Offences relating to endangered and threatened species*
>
> *(1) A person who kills or injures, tortures or molests, or attempts to kill or injure, a critically endangered, or endangered species as specified in the Sixth Schedule or listed under CITES Appendix I commits an offence and shall be liable upon conviction to a term of imprisonment of not less than five years. (2) A person who, without permit or exemption issued under this Act, deals in a wildlife trophy, of any critically endangered or endangered species as specified in the Sixth Schedule or listed under CITES Appendix I, commits an offence and shall be liable upon conviction to a term of imprisonment of not less than seven years. (3) Any person who, without permit or exemption issued under this Act, deals in a live wildlife species of any of critically endangered or endangered species as specified sin the Sixth Schedule or listed in the Sixth Schedule or listed under CITES Appendix I, commits an offence and shall be liable upon conviction to a term of imprisonment of not less than three years. (4) Any person without permit or exemption issued under this Act is in possession of any live wildlife species or trophy of any critically endangered or endangered species as specified in the Sixth Schedule or listed under CITES Appendix I, commits an offence and shall be liable upon conviction to a fine of not less than three million shillings or a term of imprisonment of not less than five years or both such fine and imprisonment.* ***(5) Any person who without permit or exemption issued under this Act, manufactures an item from a trophy of a critically endangered or endangered species specified under the Sixth Schedule or listed under CITES Appendix I without a permit or exemption issued under this Act, commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings or up to life imprisonment or both such fine and imprisonment.***

16. The Appellants were charged with two different counts, namely, being in possession and/or dealing of wildlife trophies and being a dealer in wildlife trophies and convicted only of the latter. The Court heard the evidence of 6 KWS Officers setting out the facts leading up to the arrests.

17. The Appellant claims that there were inconsistencies in the evidence. The Grounds of Appeal do not particularise the inconsistencies that are sufficiently serious to found any misgivings. The Court has considered the Proceedings. Serious inconsistencies in the evidence are not readily apparent and were in any event corroborated by the Appellant.

18. Where the Appellants also assert that the charge sheet was defective, they did not raise any complaint during the trial however what is said now is that the Charge Sheet does not accord with the entry into the Occurrence Book. This Court takes judicial notice of the fact that what is recorded in the Occurrence Book is the first impression of the offence(s) that are suspected to have occurred. The Charge Sheet is produced after investigations and interrogation of witnesses who may or may not subsequently become prosecution witnesses. The Charge

Sheet then goes through a process of adoption by the ODPP. Therefore, any changes, improvements amendments are an inevitable part of the process and do not make the Charge Sheet defective. If the Prosecution fails to obtain a conviction, that is not necessarily the fault of the Charge Sheet. The Complaint raised at trial was that they were being charged twice for the same offence.

19. On the question, the Learned Trial Magistrate considered whether the Charge Sheet was defective for duplication, he found that on the authority of ***Tiapukel Kuyoni and Another Vs Republic (2017) eKLR. Criminal Appeal No 25 and 25A of 2017*** of guidance. There Hon J. M. Bwonwonga J commented on a separate charge for an act that comprises a component of a more serious charge. He said "I do not see how a person can be in possession of game trophies without keeping them. The problem that the trial court is faced with is that our system of criminal justice all offences whether misdemeanours or felonies are summarily tried and finalized".

20. The Prosecution called the following Witnesses:

(a) PW-1 CPL JACKLINE MAIYO KWS 7581 who gave her evidence relating to qmeeting the first accused and the transactions and interactions that insued. She was recalled to produce the counter signed inventory of items seized on 22/6/2016

(b). PW-2 SAMUEL KITUR KWS No. 7598 – Ranger

(c) PW-3 DISHON KISUI KWS No. 8246 Investigations Dept Tsavo Conservation Area

(c) PW-4 JEREMIAH DOGHON KAITOBOK who is a Vetinary Officer with KWS and who tested the items seized and came to the conclusion that the 5 pieces were genuine elephant tusk with distinctive features eg shrugged lines. Tusks produced were in Court together with his Report dated 25 June 201[6] and adopted in evidence as PExh No.4

(d) PW-5 Corporal Job Magara KWS No 8140 – Investigating Officer – told Court the First Defendant was not KWS Informer. Also that another similar case registered in Marimati against the first accused. He asserted that the 1st Accused could not be believed because he had no identification document to show he was an informer. Under cross-examination he said to the Appellant: "You were a broker".

The Tusks and the Report verifying their authenticity were produced to Court as was the inventory signed by the two accused persons. The Appellant did not refuse to sign the inventory.

21. The Appellant in his defence alleged he the events that transpired on that day were set off by a friend of his, Simba Swaleh asking him to get in touch with Jackeline. The Appellant request and order a for the alleged M-pesa statement for 21/6/2016 for 072712186. The Direction was given by the Court. That document was not produced.The Appellant says he is a businessman from Malindi. He had instructions from Simba Swaleh – linked up with Peter. Received 727 from Simba Swaleh. Jackeline's number received from Swaleh – Gave his testimony on oath. Many discrepancies with the Prosecution evidence, in particular in relation to how he was put in touch with Jackeline, his role in the transaction and what transpired at the time of arrest. Alleges was beaten up by KWS officers and set up with the production of the tusks. Already admitted there was a deal where tusks were brought out of the bushes. States that he signed inventory because for record purposes only and pre-recorded statement out of fear. States he was recruited by Jackeline, she denied that on oath. Under cross-examination admitted he was arrested at the scene. He confirmed he had no documents stating he was an informer. The critical witness and/or evidence the Appellant refers to is not listed. The Prosecution adduced the evidence of 6 witnesses who confirmed the particulars of the offence. Therefore what may be lacking is the evidence to corroborate the Appellant's evidence.

22. The Responsibility of adducing the evidence for the Defence rests with the Accused Defendant and not the prosecution nor the Court. (***Section 111 Evidence Act***). In the circumstances, the Appellants refusal and/or failure to call his own evidence is not a proper ground of appeal. It is noteable that the trial court found that the evidence of the First Accused corroborated the evidence of the Prosecution witnesses up to the point when the tusks were produced. The Appellant said that he was in contact with a Simba Swaleh who lives in Lamu. Simba Swaleh was an informant. Simba Swaleh sent him to Voi to deputise for him in that role and he did so for the sum of KShs. 700/=. Simba Swaleh did not come to Court to give evidence whether to confirm or deny. In the circumstances, that evidence is not corroborated. The Learned Trial Magistrate made an order for the production of MPesa statement of 21/06/2016 to the First Accused. He did not produce it in evidence, nor did he produce his phone to corroborate his version of events.

23. In the circumstances, the Learned Trial Magistrate preferred the evidence of the Prosecution Witnesses. He said, "*In view of the foregoing, it is my finding that the prosecution has in this case adduced sufficient evidence against the two accused. They were caught literally red handed trying to sell the five ivory tusks. The ivory tusks are wildlife trophies which are protected by law.*". In relation to the sale of the ivory, the Prosecution Witnesses were clear and consistent that the Second Appellant was not an informer but a middle man between the sellers of the ivory and a prospective buyer. The Learned Trial Magistrate also highlighted that it from the evidence, "*it had emerged that during the negotiations, the 1st accused's cut was to be Kshs.1,000/- for every kilogram of ivory*". Clearly he sought to derive a benefit/commission from the transaction confirming that he was offering a brokerage service. His status as an informer was repeatedly denied but not corroborated.

24. In relation to the "double jeopardy argument, the Learned Trial Magistrate held the particulars set out in the Charge Sheet were substantiated by the evidence he heard and found the Appellant guilty of Count II, the more serious charge. The Respondent has replied to that submissions. The Respondent reminds the Court that in his Judgment the Learned trial magistrate took guidance from the case of T***iapukel Kuyoni & Anor vs Republic 2017*** . In that case the Learned Judge expressed the view that in the circumstances of that case, reading ***Section 95*** with ***Section 92*** was superfluous because ***Section 95*** was self encompassing in the sense that it set out the appropriate sentence. In this case, it is not ***Section 95*** but ***Section 84(1)*** that is to be read with ***Section 92***. Therefore the same dichotomy does not arise. Nevertheless, that Learned Trial Magistrate heard the Argument on the issue now being raised, namely the Charge Sheet was defective by reason of containing two charges. He found it was not. He further ameliorated any possible prejudice by dismissing the first count and discharging the Appellant. The Respondent also relies on the Court of Appeal authority of ***Sigilani v Republic 2004*** where the Court stated that "The principle of law governing charge sheets is that an accused person should be charged with an offence known in law. The offence

charged should be disclosed and stated in a clear and unambiguous manner so that the accused may be able to plead to a specific charge that he can understand. It will also enable the accused person to prepare his defence. Further emerging jurisprudence supports the argument that a charge sheet containing a Charge under Section 95 together with a Charge under ***Section 84*** as read with ***Section 92*** is not defective. This Court so finds. The Appellant appears to be arguing that the fact of two counts is contradictory but does not demonstrate how that is so. This Court also takes into account that it is only ***Section 92*** that takes into account the further aggravating factor of the trophy belonging to a species that is critically endangered.

25. The Record shows that the trial was delayed because the Appellant was being tried elsewhere. The Court was informed of that. It was not a conviction at that stage. The Appellant relied on ***Section 277 Criminal Procedure Code*** which sets out the procedure in case of previous convictions "*Where an information contains a count charging an accused person with having been previously convicted for an offence, the procedure shall be as follows— (a) the part of the information stating the previous conviction shall not be read out in court, nor shall the accused be asked whether he has been previously convicted as alleged in the information, unless and until he has either pleaded guilty to or been convicted of the subsequent offence; (b) if he pleads guilty to or is convicted of the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the information; (c) if he answers that he has been so previously convicted, the judge may proceed to pass sentence on him accordingly; but if he denies that he has been so previously convicted, or refuses to or does not answer the question, the court and the assessors shall then hear evidence concerning the previous conviction: Provided that, if upon the trial of a person for a subsequent offence that person gives evidence of his own good character, the advocate for the prosecution, in answer thereto, may give evidence of the conviction of that person for the previous offence or offences before a verdict of guilty is returned, and the court and assessors shall inquire concerning the previous conviction or convictions at the same time that they inquire concerning the subsequent offence*".

26. The Appellant also argues that during the course of the trial the Prosecution produced evidence of previous convictions which were prejudicial to a fair hearing. The record shows that the First Accused (Second Appellant) was released on a reviewed cash bail of (KShs 500,000). He failed to attend the Hearing on 16th January 2017. The Prosecutor did not seek a warrant for his arrest. Instead he informed the Court that the First Accused was held at Marimati Court. After several absences the Court was subsequently told that the First Accused was in Meru Prison. On that day (11th April 2017) in relation to ***Criminal Case No. 617/2015***. From the record, it appears that at no time did the Prosecutor mention a conviction. It was the First Accused who himself informed the Court that he was sentenced to 5 years imprisonment for the offence of dealing. Bearing in mind the stage at which that was said, it appears to this Court more to be a plea for a lenient sentence (5 years) than an assertion of blameworthiness on his own part.

27. However, in his Judgment, the Learned Trial Magistrate said; "*The 1st accused further claimed that he had been tasked to merely show to the KWS officers the dealer i.e. Peter Ngonyo. He sought to cut an impression that he was an informer to the department. The prosecution in a bid debunk that claim, cross-examined the 1st accused of the then pending criminal case he was facing in another court. They sought to establish that he was facing a similar charge and the complainant was the KWS, and that therefore they could not enlist the 1st accused as the informer. Although the court had cautiously allowed the issue of the pending case to be introduced in this matter, it could not use the said pending case to make a finding that is adverse to the accused on that account alone. The accused is protected under the law against the adduction of bad character evidence. The exception permitted under the law is when the accused person himself seeks to adduce evidence of his good character*.".

28. In relation to the sentence the Appellant argues that the Court applied the wrong principles in reaching a sentence that was harsh and excessive. The Learned Trial Magistate set out in his Judgment the reasoning behind the sentence. His application of the law was sound. He applied ***Section 84*** and ***Section 92*** of the Act on the Grounds that Elephants are an endangered species. He took into account (on the basis of the Appellant's own evidence) that he was not a first offender. A further aggravating feature of the offence taken into account was that the Appellant sought to obtain personal benefit from the transaction, extracting a brokers fee of KShs.1,000 per kilogramme of ivory.

29. The Appellant relies on Section 382 of the Criminal Procedure Code which provides: "*Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or revision on account of an error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during the trial or in any inquiry or other proceedings under this Code, unless the error, omission or irregularity has occasioned a failure of justice: Provided that in determining whether an error, omission or irregularity has occasioned a failure of justice the court shall have regard to the question whether the objection could and should have been raised at an earlier stage in the proceedings*.

Sentencing is in the discretion of the trial court and in this case no misapplication of principle can be discerned.

30. The Learned Trial Magistrate heard the oral evidence of the Prosecution Witnesses. Their account was corroborated by both Defendants to a point. In the main the Defendants did not deny what happened as to time, place and the production of elephant tusks but they seek to give different explanations of why they were party to those events. The First Accused said he was an informer and the Second Accused claimed to be a passerby. Their uncorroborated evidence was denied and not believed.

31. In the circumstances, the learned trial magistrate did consider the submissions and gave his reasons for not accepting the argument. Further the Learned Trial Magistrate considered the possibility of any prejudice and discharged Count I. Therefore, the Appellant was convicted of one count and sentenced for one count. The seriousness of the offence provides the grounds for the Learned Trial Magistrate's decision.

32. The Appellant would like the time spent in remand to be taken into consideration. He says, "*While laying my pen to rest, I humbly invite this Hon. Court to consider the time I was in remand custody pending trial and direct that under section 333(2) of the criminal procedure code, the period factors in my sentence i.e. from date of my arrest which was on 22/06/2016 to the time the sentence was pronounced (24/10/2017) forms part of my current sentence. Further that this Hon. Court be pleased to find that the provisions of Article 50(2)(p) of the constitution of Kenya (2010) aptly come into play.*". However, the Record shows that he was granted bail shortly after he pleaded to the Charge. He was arrested and detained in the jurisdiction of a different Court. In addition, the trial was lengthened significantly because he failed to attend. The reason was that he was being tried elsewhere as it turns out for a similar offence.

33. For the reasons set out above the Appeal against conviction is dismissed. The Appeal against sentence is also dismissed.

Order accordingly,

Farah S. M. Amin

JUDGE

Dated: 30th day of April 2020

Signed, and Delivered in Voi this the 5th of May 2020

In the Presence of

Court Assistant: Josephat Mavu

Appellant: In Person by Skype Video Link from Manyani GK Prison

Respondent: Ms Mukangu by Skype Video Link from ODPP Voi.