



IN THE HIGH COURT OF ESWATINI

Held at Mbabane

Criminal Case No. 212/2014

In the matter between

Rex

V

Sibusiso Sydney Dlamini

1st Accused

Titus Sifiso Mnisi

2nd Accused

Amos Mnisi

3rd Accused

John Mfana Maziya

4th Accused

*Neutral Citation: Rex V Sibusiso Sydney Dlamini & 3 Others (212/14) [2022]
SZHC 104 [2022] (24 May 2022).*

Coram : Tshabalala J

Heard : 29/4/2022

Delivered : 24/05/2022

SENTENCE

[1] The 1st and 2nd Accused have been convicted in Count One, of contravention of Section 8 (4) read with subsection (5) of the Game Act No. 51/1953 as amended. The indictment in Count One states that on or about the 1st April 2013 at Grand Kenyon Farm in the Lubombo region, the Accused persons

individually, or all with others, acting jointly in furtherance of common purpose, without a permit, unlawfully hunted/or were in possession of a trophy of a royal game, to wit a kudu.

- [2] Accused 2 was also convicted in Count Seven for contravention of Section 11 (1) read with subsection (8) (a) (i) of The Arms and Ammunition Act No. 24/1953 as amended, in that on the 1st April 2013 at Grand Kenyon Farm in the Lubombo region, individually or acting in furtherance of a common purpose, not being a holder of a license to possess a firearm, he unlawfully possessed a 3006 US firearm serial no. 05064, in contravention of the said Act.
- [3] Counsel for the Accused persons filed detailed submissions in mitigation of sentence for both Accused, in which he brought to the attention of the court personal circumstances of the Accused, relevant factors to be taken into account in sentencing as well as the law providing guidelines in the exercise of court's sentencing discretionary powers.
- [4] The Crown on its part highlighted to the court that the offences of which the Accused have been convicted have prescribed sentences in terms of the statutes that create them, that is the Game Act and the Arm and Ammunitions Acts, respectively.
- [5] In passing sentence, the court is mindful of personal circumstances of each Accused and all the factors that operate in their favour as elucidated by their Counsel. Both Accused have no previous convictions, they have dependants to support, the trial was protracted over many years before conclusion, creating a burden on them; Accused 2 pleaded guilty to Count 7 which saved the Court's time.

- [6] In line with the principle of the triad, interests of society and nature of the offences are also taken into account. The court is therefore called upon to take into account the scourge of illegal hunting which society frowns upon, prevalence of offences involving unlawful possession of fire arms in this jurisdiction.

Accused No. 1

- [7] A1 is sentenced in Count,¹ to E4,000 (Emalangeneni Four Thousand) fine, failing payment of the fine, to a term of imprisonment for 1 (one) year.

Accused No. 2

- [8] A2 is sentenced in Count 1, to E4,000 (Emalangeneni Four Thousand) fine, failing payment, a term of 1 (one) year imprisonment.

[8.1] A2 is sentenced in Count, to E5,000 (Emalangeneni Five Thousand) fine, failing payment of fine, to a term of 5 (Five) years imprisonment.

[8.2] Both sentences in Counts 1 and 7 in respect of Accused 2 shall run concurrently.

[8.3] Half of the sentence in Count 7 in respect of Accused 2 is suspended for three years on condition that Accused 2 is not found guilty of an offence involving possession of firearm without a licence committed within a period of suspension.

¹Contravention of the Game Act.

A handwritten signature in black ink, appearing to read 'D. Tshabalala', is written over a horizontal dashed line.

D. Tshabalala
Judge

For the Crown: A. Matsenjwa – (DPP's Chambers)

For the Accused persons: B. J. Simelane (B J Simelane & Associates)