

TANZANIA / JUDGMENT

Cr SESSION 57

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA DAR ES SALAAM SUB
REGISTRY. CRIMINAL SESSION NO. 57 OF 2023 CASE REFERENCE NO 20230717000511789
REPUBLIC VERSUS EKE BEDE @ KOFFI BRICE-----ACCUSED

JUDGEMENT:

5th & 18th June 2024. KIREKIANO, J: The accused herein, Eke Bede, is arraigned in this court and charged with one offence of trafficking in narcotic drugs contrary to section 15 (1) (b) of the Drugs Control and Enforcement Act no 5 of 2015 (DCEA). According to the information, the allegation against the accused is that on 26.06.2016 at Julius Nyerere International Airport (JNIA) within Ilala District in Dar es Salaam, the accused trafficked Narcotic Drugs, namely Heroin Hydrochloride weighing 4.02 kilograms. The accused pleaded not guilty to the information. According to the prosecution case, the quick picture surrounding the accused arrest and trial is that on the fateful date of 26.06.2016, the accused was at JNIA travelling to Abuja, Nigeria, via Adis Ababa by 1|Page Ethiopian Airlines. When the accused was passing the security check at JNIA terminal II, the screening of his bags caught the attention of the security officers. It appeared to them, according to screening, that the accused' bag contained substances in two packets suspected to be drugs. The accused was withheld and ultimately arrested and searched by police at JNIA. The police thus seized the substance in two packets and other items, including the accused travelling documents. Upon examination of the substance by the chief government chemist, the same was confirmed to be the narcotic drug that is Heroin Hydrochloride, weighing 4.02kg. The accused disassociated himself from the drugs and posed a defence of alibi that, on a material date and time, he was not at JNIA but in custody at the central police station in Dar es Salaam. The prosecution case was conducted by Miss Judith Mauya, Miss Florida Wenceslaus, and Miss Daisy Makakala, learned state attorneys. On his part, the accused had the service of Miss Marietha Mollel and Mr Gerson Mosha's learned advocates. The prosecution side paraded seven witnesses in a bid to prove the information. They were PW1: Fidelis Simon Segumba, PW2: Dickson Crispin Haule, PW3: Maunda Mugwiro Maunda, PW4: ASP Hassan 2|Page Masumika, PW5: Sgnt Peter, PW6: ACP Neema Mwakagendi, and PW7, PW7 Inspector Philemon Mbinda but they also tendered 9 Exhibits. The prosecution case is as follows: On 26. 6.2016, the accused was travelling to Abuja, Nigeria, by Ethiopia Airline, according to an air ticket with number 0712114979054/34 (Exhibit P.5). When he arrived at JNIA, security procedures were carried out for

all departing passengers. This involved screening of luggage and other procedures. At this point, around 01:30 hrs (26.06.2016), PW3 Maunda Mugwiro Maunda, a security officer, was at the screening machine. He noticed a brown bag with suspicious content packed in it. He identified the accused as the bag's owner and asked the accused to step aside to allow a physical inspection of his bag. The physical inspection of the accused bag was done beside him by one Stephano Ntambi (Exhibit P- 9). Upon physical inspection, the accused's luggage had a suspicious substance packed in small black bag that needed more searching. The police (PW2 Nickson Haule) were involved. PW3 also testified to have witnessed PW2 searching the accused and seizing the items which were listed in the certificate of seizure (Exhibit P7) which he also signed. 3|Page The accused was thus taken from the security gate to the police station within JNIA at Terminal II, where he was arrested and searched by police officer PW2 Dickson Haule. According to PW2, the search of the accused was conducted in the presence of Stephano Ntambi (Exhibit P-9) and Maunda Maunda (PW3). It was PW2 Haule's testimony that upon searching the accused bag, he seized two brown packets sealed in a small black bag with substances he suspected to be narcotic drugs (Exhibit P2). Other items seized from the accused were two passports: one Nigeria passport number A06302435 in the name of Eke Bede (Exhibit P3) and another Ivory Coast passport number 15AH974655 in the name of Koffi Brice but also bearing the picture of the accused (Exhibit P 4), accused airline ticket issued by Ethiopian Airline (Exhibit P5) and accused vaccination cards bearing his Nigerian passport number A06302435 (Exhibit P6). There were other items listed but not tendered as Exhibits. All these items were listed in the certificate of seizure Exhibit P-7, which was signed by him and the accused but also witnessed by PW3 Maunda, Stephano Ntambi Exhibit P 9. It was PW2's testimony that after seizing the suspected drugs, he labelled the same as JNIA/IR/97/2016, The two packets of suspected drugs were 4|Page packed in one large brown envelope and they were labelled JNIA/IR/97/2016. After communication was done by police and with officers from the Ant Drug Unit (ADU), the case was taken over by ADU; thus, he handed the alleged drugs and other items seized together with the suspect to the officer from ADU PW4: ASP Hassan Masumika, PW5 Sgt Peter recorded Stephano Ntambi's statement on 25/8/2016. This statement (Exhibit P9) was admitted under section 34B

- (2) of The Evidence Act Cap 6 [RE 2019]. The substance of this statement is that on 26.06.2016, while at JNIA, he conducted a physical search of the luggage of a passenger, namely Eke Bede after the screening of his bag was suspected by PW3 Maunda. In this, he found a suspicious substance, and the police were involved in more searches. When the said Eke Bede luggage was searched by PW2 he witnessed seizure of two packets of substance suspected to be narcotic drugs. It was the testimony of PW4 Asp Hassan that he worked as a police detective in the Anti-Drug Unit. On 26.06.2016, while on duty, he was assigned by the head of the Unit "Afande Mihayo" to go to JNIA to collect a suspect and exhibits. While at JNIA Terminal II police station, he met Inspector Dickson (PW2) in the company of another officer who 5|Page informed him that the suspect arrested was Eke Bede, who was found with two packets of drugs. Inspector Dickson handed him the drugs labelled JNIA/IR/97/2016 and the suspect, Eke Bede. This witness (PW4 Asp Hassan) also acknowledged receiving other documents seized from the accused, Exhibit P3, P4, P5, and P6, together

with a certificate of seizure, Exhibit P7. At this stage, PW4, having contacted his senior on the same date, 26/06/2016, handed the suspected drugs (Exhibit P 2) and other exhibits to ASP Neema, a custodian of Exhibits at ADU. The procedure of taking Exhibit P2 to the Chief Government Chemist for investigation was followed. PW6 ACP Neema Mwakagendi (SP Neema by 2016) testified that she received two packets from PW4 Hassan containing substances suspected to be narcotic drugs. She marked the same in the Exhibit register as JNIA IR.97/2016. After marking the same, she sealed the exhibit with two packets with the number JNIA/IR.97/2016 with a red seal; she wrote her name on the seal, SP Neema, and the date 26/6/2016. The accused also signed the same by thumb. According to her, this sealing exercise was done in the presence of Ziada Yassin, an independent witness (Exhibit P10). 6|Page PW7 Inspector Philemon Robert Mbinda tendered a statement of Ziada Yassin (Exhibit P10). This statement (Exhibit P10) was admitted under section 34B (2) of The Evidence Act Cap 6 [RE 2019]. In her statement, she said that on 26.6.2016, she witnessed SP Neema (PW6) packing suspected drugs. The exercise was done in the presence of the suspect, who was introduced to her as Eke Bede. According to her, she signed, and the suspect signed by thumb. The next day, 27/6/2016, accompanied by Inspector Hassan (PW4) and DSgt Swedy, PW6, took the exhibit, JNIA/IR.97/2016, to the Chief Government Chemist for analysis. The suspected drugs were submitted to the government chemist in the prescribed submission form DCEA 001 (Exhibit P-8) and were received by PW1 Fidelis Segumba (PW1). After analysis, PW1 confirmed that the substance was a narcotic drug, that is, heroin hydrochloride, weighing 4.02 Kg. The drugs were thus returned to her for safe storage until the same was required to be tendered as evidence in this case. PW1 Fidelis Simon Segumba, a chemist from Government Laboratory Chemist, testified that on 27/06/2016, he received a parcel of substances suspected to be drugs. He received the same from a police officer, SP Neema (PW6). The same had the label IR. JNIA/IR/97/2016. 7|Page It was accompanied by exhibit submission form DCEA Form no 001 (Exhibits P 8) showing the sample type. According to laboratory examination, both preliminary and confirmatory tests confirmed that the substance contained in the two packets Exhibit P2 were narcotic drugs, that is, heroin hydrochloride weighing 4.02kgs. He thus prepared a report on the findings. He tendered the drugs he analysed (Exhibit P-2) but also his report on findings (Exhibit P1) On his part, the accused fended himself as DW1 Eke Bede. In his defence, he denied the information against him. He acknowledged ownership of his passport, Exhibit P3, the passport of Koffi Brice (Exhibit 4), and his vaccination card, Exhibit P6. He disassociated himself from the evidence of the seizure certificate (Exhibit P7), the seizure of Exhibit P2, and the air ticket itinerary (P5). He also denied having met PW2, PW3, P4, and P6 until they appeared and testified in court. His version was that on the date alleged in the information, 26.6.2016, he was detained at the central police station in Dar es Salaam. He said he arrived in Tanzania on 13.08.2016 to visit his friend John Iwueze and his nephew Koffi Brice. He stayed at the Sinza Golden Park Hotel. On 18.6.2016, while on his way to Mbezi Beach from Sinza, he was arrested by police and was then detained at the central police station in 8|Page Dar es Salaam at the police station. According to him, he was later charged at Kisutu Resident Magistrate Court, PI no 23 of 2016, together with one Kambi Zuberi Seif, who was

later discharged by the committing court. A copy of the charge sheet was admitted as Exhibit D 1. Regarding passport exhibit P4, he said that it was not his passport in another name; instead, he wanted to give it back to his nephew Koffi Brice, who had forgotten it at his hotel. At the closure of the defence case, all parties were allowed to make written submissions. No submissions were filed by the prosecution side. I appreciate the timely submissions filed by Miss Marietha Mollel and Gerson Mosha for the accused; I have read them. The accused submission addressed 12 areas majoring the following areas: the chain of custody of exhibit 2, labelling of exhibits P2, search and seizure, contradiction in evidence, the credibility of the report of the analyst P1 Statement of Ziada P10, Lack of material evidence, lack of independent interpreter during search and seizure, and accused's defence of alibi. However, I will not reproduce them at this stage. I take it that they are not intended to supplement evidence on record; thus, I will consider 9 | Page them to assist the court in considering matters of law and procedure as I address the contending issues in this trial. It is common ground that the onus of proving the charge against the accused beyond reasonable doubt lies with the prosecution and does not shift. There are plenty of court decisions, including those cited by the defence Side Iddi Ismail Mohamed V. The Republic In Criminal Appeal No. 135 Of 2005 and Jonas Nkinze V Republic [1992] TLR 213 The accused is charged with trafficking narcotic drugs under section 15 1 (b) of the Drug Control and Enforcement Act No.5, 2015. DCEA Trafficking finds its expression under section 2 of the Act; Trafficking means the importation, exportation, manufacture, buying, sale, giving, supplying, storing, administering, conveyance, delivery or distribution by any person of a narcotic drug or psychotropic substance, any substance represented or held out by that person to be a narcotic drug or psychotropic substance or making of any offer. ' As I address the prosecution burden in proving the charge, I have in mind that the particulars in the information at hand state that on 26.06.2016 at Julius Nyerere International Airport (JNIA) within Ilala 10 | Page District in Dar es Salaam, the accused trafficked Narcotic Drugs, namely Heroin Hydrochloride weighing 4.02 kilograms. The parties adduced evidence on these particulars, which I find were sufficiently elaborate for the prosecution to make their case and for the accused to marshal his defence as the record would show. Thus, I was settled that the information was properly before me without prejudice to any part. I Athumani Mohamed Nyanyi @ Ismail Adamu & Others vs Republic (Criminal Appeal No. 624 of 2021) [2024] TZCA 444 (11 June 2024) This court is tasked to consider, in the first place, whether the substance (exhibit P2) that the accused is alleged to have possessed was a narcotic drug and, in the second place, whether the accused is the one who trafficked the substance produced in court. PW3 Maunda told this court that he suspected the substance in the bag accused bag during screening, which suggested it was botanical in powder. After changing hands, this substance reached the expert PW1 Simon Segumba for analysis. I will address the chain of custody later. PW1 analysed the substance and prepared his report in Exhibit P1. In his defence, the accused questioned its competence on two aspects: one, it was prepared by the witness "Fidelis Segumba." In contrast, the 11 | Page witness who testified was "Fidelis Simon Segumba." Two, the witness did not expound the amount he took from each packet for testing. In this, the defence argument is that it derogated the

report's credibility (Exhibit P1) and thus should be expunged. It is on record that when the witness was testifying, he was asked to state his full name, which he said is Fidelis Simon Segunda. No issue was prompted on the names suggesting that he was not the one who prepared the report Exhibit P1. Regarding the sample used to conduct the test, this witness said that when he received the two packets of Exhibits P2, he performed the primary test, which included weighing the same at 4.02 Kg. This exhibit was labelled with lab number 1062/2016, and then the chemical composition was identified by taking part of the sample from each packet; all this was done while labelling the same. Following a confirmatory test, the same was proved to be heroin hydrochloride, thus making a finding in his report Exhibit P1 that the substance was a narcotic drug, heroin hydrochloride measuring 4.02 kgs. I have revisited this evidence in reflection of the defence argument on the effect of the expert to say the amount of sample he used to analyse the sample. This witness, PW1, explained his knowledge, skills, and expertise acquired in conducting and analysing drug-related samples. He is a gazetted expert in GN 519 of 2010, holding a master's degree in 12 | Page Science and Microbiology. There was no controverting evidence of his competency. What amount he ought to use to analyse chemical composition, in my considered view, was a matter of expertise in science as opposed to law. I am aware that where there are good reasons for differing from the expert report, this Court will be is justified in doing so. In this case, I have seen none, and thus decline to subscribe to the defence argument that the report should be expunged. *Saidi Mwamwindi v. Republic* (1972) HCD 212 considered. The defence raised an aspect of contradiction on the weight of Exb P2 in evidence in the statement of Ziada Yasin (Exhibit P10). According to her (P10), the substance weighed about 5kg. I have considered this variation; this was, in her own words, her estimation. As such, the issue of accuracy of weight is not the root of the matter, that is, whether the substance seized was a narcotic drug. This court thus finds as a fact that Exhibit P2 was a narcotic drug, heroin hydrochloride measuring 4.02 kgs. As alleged it the information. As indicated above, the other vital aspect to be answered is the connection between the substance confirmed to be narcotic drugs with the accused. 13 | Page This takes me to address the evidence in search and seizure and the chain of custody of the seized items. I will start with the issue of search and seizure. It is worth noting that according to section 32 of the DCEA, the Criminal Procedure Act applies with necessary modification. There is evidence in the certificate of Seizure, Exhibit P7. During admission and in the defence submission, there are arguments on its legality; that is, it did not comply with the law due to the lack of receipt and search warrant and that officer PW2 was not authorised to search as there was no evidence that he was an officer in command of the station given to section 38(1) of the Criminal Procedure Act. Cap 20 R.E 2022 read together with paragraphs 1 (a) (b), (c), 2(a) and (d) of the Police General Order (PGO) No.226. While I address this, I will also address the issue of independent witness. Concerning the search warrant issue, Security Officer PW3 suspected the accused and informed the police; PW2, this was at 01:30 midnight, and passengers were rushing to catch their flight schedule. I do not contemplate here what sense the law would have made if a suspect in fleeting mode could not be searched without a warrant. I consider this a fit scenario for an emergency search. 14 | Page With regard to the competence of

PW2 to conduct a search, having found that the search was in an emergency, it would follow that PW2, who was in the rank of inspector, was justified to search. My view is supported by the decision in *Slahi Maulid Jumanne vs Republic* (Criminal Appeal 292 of 2016) [2018] TZCA 34 at page 19 thus; In our view, however, we do not think that the absence of a search warrant would be a cause of concern in this matter as PW4, being a police officer as defined under the CPA, was empowered to conduct a search in an emergency and seize any item so found without any warrant pursuant to the provisions of section 42 (1) of the CPA. It is common ground that an independent witness is essential to providing independent evidence during a seizure. In the present case, it is necessary to note that the certificate of seizure Exhibit P7 was done in form DCEA 003, which finds its roots under sections 48 (2) (c) (V) and (vii) of the DCEA. Given the above, my findings about independent witnesses in Form No. DCEA 003 (exhibit P 7), the same was signed by PW3 Maunda and Stephano Ntambi (Exhibit P8). The defence submitted that a statement of Stephano Ntambi (Exhibit P8) should not be accorded any weight, and there was no proof that he is dead; as such, a lack of independent witness dismantles EXbP7. I have also read and considered the decision in 15 | P a g e *Shaban Idd Kindamba V. R*, Criminal Appeal Number 390/2019 CAT, Mtwara, on the role of independent witness as cited by defence counsel. My response is that even without statement P8, the same does not make it defective in want of an independent witness. As such, the decision in *Shaban Idd Kindamba* cited is distinguishable as it did not address section 48(2)(c) (v) of the DCEA, which is the root of Exhibit P7. The section does not commandingly require presence in the search and signature of an independent witness in the certificate of seizure. See *Jibril Okash Mohamed vs Republic* (Criminal Appeal No. 331 of

2017) [2021] TZCA 13 (11 February 2021). I have also considered the defence submission that the lack of an independent interpreter dented the prosecution case. It is undisputed that the accused, being a Nigerian, could not speak Kiswahili. It is also on record that when the arrest and seizure were made, the witnesses used English to communicate with the accused. I consider that there was nothing wrong with the whole exercise as long as the language understood by the accused was used. The defence argument that the lack of an independent interpreter at arrest and seizure dented the prosecution case is not backed by law. 16 | P a g e With regards to the chain of custody, I am alive to the decisions cited by the defence, that is, *Paulo Maduka and 4 Others V. Republic*, Criminal Appeal No. 110 Of 2007, CAT, *Iluminatus Versus Republic* [2003] TLR 245, and *Miraji Malumbo Versus D.P.P* Criminal Appeal NO. 229 of 2005 and others. In a case of this kind, the spirit of the chain of custody ensures credible evidence suggesting that what was seized from a suspect is actually the same thing taken for analysis and tendered to the court. The defence submission argued that PW2 did not label the exhibit, which had to be recorded in a register to ensure effective management. The label must also have been attached to the exhibit when it came into his possession. According to the evidence on record, I'm not at all convinced that the exhibits were not labelled. After PW2 Haule had seized Exhibit P2, he labelled the same; he opened a case file no JNIA/IR/97/2016. He also said that he labelled the exhibit with the case number and handled the same to an officer from ADU, PW4

Hassan. PW4 Hassan confirmed that he received Exhibit P2 from PW2 Haule. He identified the same with the JNIA/IR/97/2016 label. On his part, he also handled the same to the custodian of exhibit PW6 ASP Neema. He said; 17 | P a g e I contacted my seniors about the custody of the exhibits, and I handed the same to ASP Neema at Terminal I. This was on 26/06/2016. I used exhibit Register (F. 16). Lastly, there was evidence of PW6 ASP Neema. She said; On 26/06/2016, I received two packets from Inspector Hassan. The packets contained a substance suspected to be drugs. This was at JNIA. The bag was of the brand Dunslang. I marked the same in the exhibit register by JNIA IR. 97/2016, the same number as the case file. It is also on record that she submitted the same to the Chief Government Chemist for analysis and was received by PW1 Segumba. This is according to submission form DCEA 001 (Exhibit P9) and the Testimony of PW1 Segumba. I note that the said Exhibit Register was not tendered in court as probed by the defence. However, I have considered the chronological events are salvaged by the oral testimony of the witnesses. My view is fortified by the development of jurisprudence in Paulo Maduka and 4 Others (supra) as elucidated in several decisions, including in Edwin Cheleh Swen vs Republic (Criminal Appeal No. 649 of 2021)

[2024] TZCA 272 (17 April 2024) It is now settled that the issue of the sanctity of the chain of custody revolves around the prevailing circumstances for each case. There are circumstances where the oral evidence of 18 | P a g e witnesses is sufficient to prove the chain of custody without any paper trail, especially where the substance grounding the case is related to things that are not easily transferred, like the pellets in the present case. Having revisited the evidence by PW2, PW4, and PW6 and the testimony by the analyst PW1, as narrated above, I am confident that it provided a credible chronology of events on the movement of Exhibit P2 from when it was seized from the accused until it was examined by PW1 at Chief Government Chemist laboratory and back to storage when it was tendered in court. My conclusion is also based on two factors: one, the alleged exhibit, two packets of narcotic drugs, is not the type of exhibit that can be distorted easily upon changing hands. Two, the credibility of this evidence has to be compared with other items seized from the accused, such as the travelling documents, exhibits 3, P4 and P6, which, upon being tendered, were undisputed. This takes me to consider the accused defence. Regarding the accused's defence, the accused stated that on the material date of 26.6.2016, when the offence of trafficking in narcotic drugs is alleged to have been committed, the accused was in detention/remand at Central police station, Dar es Salaam Region in Tanzania. In this state of affairs. I find it fitting to bring up the law as it stands on this defence; admittedly, 19 | P a g e this accused did not file and serve the defence side notice of this defence as required by section 194(1). of the Criminal Procedure Act, Cap 20 [RE 2022], However, under section 194 (5) of the Act, the accused had the opportunity to salvage the defence by furnishing the prosecution with the particulars of the alibi at any time before the case for trial was closed. This was done on 23.5.2024. The particulars furnished read that; when the offence of trafficking in narcotic drugs is alleged to have been committed, the accused was in detention/remand at Central police station, Dar es

Salaam Region in Tanzania. The accused did not state any further particulars, including the officer who detained him and on what charges. In any case, I considered this defence while weighing the same; I have also considered the oral account of PW2, PW3, PW4, and PW6. All these witnesses testified that the accused was at JNIA on 26.6.2016, where he was arrested. In his defence, the accused said this case was fabricated. I have considered this complaint; nothing from the defence suggested a known spat between any of the four witnesses to the extent of faking the charge against the accused. As such, I am not convinced how and why all these witnesses would arbitrarily seize the accused's passport and create this case. 20 | Page I have also considered the accused's defence: during the proceedings at the committing Court at Kisutu, he was jointly charged with one Zuberi Seif Kambi. I this the particulars of the first offence of the charge sheet tendered as Exhibit D1 reads; 1st count EKE SIO BEDE and KAMBI 5/0 ZUBERI SEIF, on diverse dates between the 1st day of June and the 26th day of June 2016, at an unknown area within Ilala District, Dar es Salaam Region, did conspire to commit an offence to wit TRAFFICKING OF NARCOTIC DRUGS. 2nd count EKE 510 BEDE and KAMB s/o ZUBERI Ri SEIF on the 26th day of June 2016 at Julius Nyerere International Airport within Ilala District in Dar es Salaam Region, did Traffic Narcotic Drugs, namely, Heroine weighing 5 kilograms. I have considered this piece of evidence. As much as the accused is not required to prove his alibi, I have not seen anything worth raising reasonable doubt in the prosecution's case. The dates appearing in the charge are the dates in this information. Nothing from this piece of evidence suggests that it was improbable for him to be at JNIA on 26.6.2016, the date alleged in the information. 21 | Page Having considered the accused's defence of alibi as a whole, I find it too weak to doubt the prosecution case. Accordingly, it is rejected. The defence also mentioned that the prosecution case lacked material witnesses or evidence. The defence argued that the prosecution should have tendered CCTV footage at JNIA to prove that the accused was at the JNIA, having considered the evidence by PW2, PW3, PW4, and P6. I found their evidence credible. What the CCTV camera could have seen, the naked eyes of these witnesses could have seen better. As such, regarding the screening machine record, having noted this, I do not consider derogating the prosecution case worthy because the same was the initial indication that the accused luggage had suspicious items; however, the actual search came after he was searched by PW2, who testified. A material witness is a witness who possesses information about some fact that affects the merits of a case, the witness or piece of evidence which explains some missing links in the case. Failure to bring up such evidence or witness can justify an adverse inference against the prosecution, Issa Reji Mafuta v. R, Criminal Appeal No. 337 of 2020 Considering the evidence on record, I do not see missing links in the prosecution case that require proof by CCTV footage or a record of the 22 | Page screening machines as material evidence. To put it differently, I see no justification to draw adverse inferences on the prosecution case. With regards to the evidence of Ivory Coast passport Exhibit P4 and air ticket itinerary P5, The accused admitted that his name is Eke Bede; this was settled during the preliminary hearing, and even in his defence, he said his name is Eke Bede. His Nigerian passport, exhibit P3, further proves his identity. The name in exhibit

P4, “Koffi Brice ,” is the alias mentioned in the charge sheet. Alias simply means false or assumed name (See Concise Oxford Dictionary 11th Edition). The evidence and defence focused on Eke Bede's name. I see no merit in the complaint about the lack of evidence from the accused embassy on proof of the other passport, Exhibit P4. Having considered all the evidence on record, I am satisfied that the offence charged has been proved beyond reasonable doubt. The accused is therefore found guilty of the offence charged, that is, trafficking in narcotic drugs contrary to section 15 (1) (b) of the Drugs Control and Enforcement Act no 5 of 2015. He is accordingly convicted. 23 | P a g e A. J. KIREKIANO JUDGE. 18.6.2024 Aggravating Factors: Miss Agness Ntunguja S/ A We do not have a criminal record against the accused; the use of narcotic drugs is dangerous to our society and country; we pray for a severe sentence according to the law; that is all we have to say. Mitigation Miss Marietha Mollel. Adv The accused is now 53 years old. He is from Nigeria, he has health issues, and he has been in custody for eight years now. We pray for leniency. 24 | P a g e SENTENCE. In sentencing, I have considered the wording of section 15 (1) (b) of the Drugs Control and Enforcement Act no 5 of 2015 (DCEA), which provides for life imprisonment upon conviction. While I agree that time spent in custody is a good mitigation factor and may be excluded during sentencing, after considering it, I do not consider that it was meant to be applicable in sentences punishable by life imprisonment. In the end, the accused is sentenced to serve life imprisonment in jail. A. J. KIREKIANO JUDGE. 18.6.2024. ORDER The drugs Exhibit P2 to be disposed of by DCEA by Destruction Sgd A. J. KIREKIANO 25 | P a g e JUDGE. 18.6.2024. Court Judgement sentence and order delivered in open court in the English Language understood by the accused and in the presence of Miss Agness Mtunguja S/A for Republic and in the presence of the accused and his advocate, Miss Marietha Molel. Sgd A. J. KIREKIANO JUDGE. 18.6.2024. 26 | P a g e

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