

UGANDA / JUDGMENT

Uganda v Muwonge & 13 Others (HCT-00-ICD-CR-SC 8 of 2023) [2024] UGHCICD 9 (27 February 2024) [2024] UGHICD 9

COURT

HC: International Crimes Division (Uganda)

BEFORE

Wabwire, J

CASE / FILE NUMBER

HCT-00-ICD-CR-SC 8 of 2023

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THE REPUBLIC OF UGANDA**IN THE HIGH COURT OF UGANDA AT KAMPALA**

(INTERNATIONAL CRIMES DIVISION)

HCT-00-ICD-CR-SC-0008-2023

UGANDA PROSECUTOR

VERSUS

A.1 MUWONGE YUSUF alias SSEMAGANDA HANZA alias DANZE ROBERT

A.2 KIYEMBA ISMAIL

10 A.3 BOGERE MUNIRU

A.4 JJUKO BASHIR KIWA ANUKA alias FRED

A.5 KISIITU MOHAMMED

A.6 BAKYAYITA HAMUZA

A.7 MATIWA HUZAIFA ISMAIL

15 A.8 WAMBEDDE TWAHA

A.9 NSUBUGA NADIR FAISAL

A.10 ISHAQ JERO

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A.11 KIRYOWAJAMADAH AFAN a.k.a WAKIDA

A.12 SSEBUNYAHASSAN

A.13 MUSINGUZI SADIQ

A.14 BBUMBA AMMAR alias UMAR ' ACCUSED

BEFORE: HON. JUSTICE RICHARD WEJULI WABWIRE

RULING

INTRODUCTION

This ruling is in respect to pre-trial and confirmation of charges. The accused (A1) Muwonge Yusuf 10 and (AZ) Kiyemba Ismail are indicted each with one count of Terrorism Contrary to Section 7(1) b) and (2) j) of the Anti-Terrorism Act, 2002 (ATA).

While all the accused (A1-A14) are indicted with one count of Belonging to a Terrorist Organization Contrary to Section 11 (1) (a) and 3 of the ATA. During the pre-trial, the charges were read and explained to the accused in open Court but the accused were not allowed to plead to them because 15 they could only do so at their trial before the trial panel. The accused stated that they understood the charges that had been read to them.

REPRESENTATION

The prosecution was represented by Mr. Thomas Jatiko, Assistant Director of Public Prosecutions from the Office of the Director of Public Prosecutions while the accused were represented by Mr. 20 Asiimwe Anthony on State brief.

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LEGAL FRAMEWORK

The International Criminal Court Act, 2010 and **The Judicature (High Court) (International Crimes Division) Rules, 2016** mandate this Court to adopt the procedure of the International Criminal Court with necessary adjustments to fit the specifics of each case.

5 Article 61 (1) of the Rome Statute of the International Criminal Court (hereinafter referred to as the Rome Statute) stipulates that:

> * "Subject to the provisions of paragraph 2, within a reasonable time after the person's sumnder or voluntary appearance before the Court, the pre-trial chamber shall hold a hearing to con.firm the charges on which the Prosecutor intends to seek trial. The hearing shall be held in the presence of the Prosecutor and the person charged, as well as his or her legal counsel.* "

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The legal requirement for holding a pre-trial hearing was introduced by the **Judicature (High Court) (International Crimes Division) Rules, 2016** (hereinafter referred to as the ICD Rules), specifically under Rule 6 (2) which stipulates that:

* "The Division shall, after an accused person has been committed for trial before the Division, hold a pre-trial ,r,* " *conJerence ...*

The purpose of the pre-trial conference as per Rule 6 (2) (a)-(h) of the ICD Rules is:

To consider the facts of the case; the marking and identification of the evidence of the parties; any waiver of objections to admissibility of evidence; the settlement of some or all of the issues; the status of victims and witnesses and any special needs of the witnesses, the accused person and the defence 20 witnesses, if any; the necessary orders and directions to ensure that the case is ready for trial, and that the trial proceeds in an orderly and efficient manner, and obtaining of such orders; the modifications

of the pre-trial order if the accused admits the charge but interpose 1 ful d £ d s a aw e ence; an any other matters that will promote a fair and expeditious trial of the case.

It is important to highlight that the pre-trial hearing, according to Rule 12 (10) of the ICD Rules, does not encompass the examination of witnesses. The Court's reliance is solely placed on the case summary

5 and evidence provided by the Prosecution, with such information expected to be disclosed no later than fifteen (15) days before the scheduled pre-trial date, in accordance with Rule 21(1) of the ICD Rules.

EVIDENTIAL BURDEN AND STANDARD OF PROOF

In all criminal matters, the prosecution bears the evidential burden to prove all the elements of the 10 offence charged except in certain offences (See: *Woolmington versus DPP [1935] AC 462;* which however, are not the subject of this case. It is also commonly understood that the standard of proof in criminal cases is "beyond a reasonable doubt." (See: *Miller versus Minister of Pensions [1947] 2 ALLER327).*

The ICD Rules, The ICD Act and the Evidence Act do not specifically provide for the evidential 15 threshold required in the pre-trial hearing/ confirmation of charges. Nevertheless, **Article 61(7) of the International Criminal Court Statute/The Rome Statute (ICCSt)** provides that;

> *The pre-trial chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. Based on determination, the pre-trial Chamber shall-

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(a) Confirm those charges in relation to which it has determined that there is sufficient evidence, and commit the person to a trial Chamber for trial on the charges confirmed;

(b) Decline to confirm charges in relation to which it has determined that there is insufficient evidence;

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- *(c) Adjourn the hearing and request the Prosecutor to consider:*
- *(i)* *th sheet to a particular charge; or Providzngfurther evidence or conductzngfurther znvesttgatton wz re -r*
- *(ii)* . . *t blish a dill'erent crime within the Amending a charge because the emdence submitted appears to es a ':11° jurisdiction if the Court.* "
- 5 This being a pre-trial, the evidential burden and the standard of proof will differ since no witnesses are being called to testify at this stage. Be that as it may, the evidence presented and the standard of proof required by the Court during the pre-trial stage must be substantial and clearly establish a logical connection between the accused and the specific allegations.

This means that the prosecution bears the responsibility of presenting enough evidence to convince

10 the Court that there are substantial grounds to believe that the individual committed each of the offences they are charged with.

The evidence the Prosecution presents must therefore be analyzed and assessed as a whole (see: *The Prosecutor versus Germain Katonga and Mathien Ngudjolo Chui ICC-01/04-01/07at* page 23).

COUNT 1: TERRORISM CONTRARY TO SECTION 7(1) B) AND (2) J) OF THE ANTI-15 TERRORISM ACT, 2002.

The prosecution submitted that on the 4th day of November 2021 at Kireka-Bbira village in Wakiso District, A1 Muwonge Yusuf alias Ssemaganda Hamza alias Danze Robert, for purposes of influencing the Government or with intent to intimidate the public or a section of the public and for political, religious, social or economic aim, indiscriminately without due regard to the safety of others or property, intentionally and unlawfully possessed an Improvised Explosive Device (IED).

The parties cited S. 7 of the ATA which provides that:

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*(1) Subject to this Act, a person who engages in or carries out any act of terrorism commits an offence and is, on conviction-

*(a) ...

(b) in any other case, be liable to suffer death.

(2) A person commits an act of terrorism who, for purposes of influencing the Government or an international organization or intimidating the public or a section of the public and for a political, religious, social or economic aim, indiscriminately without due regard to the safety of others or property, carries out all or any of the following acts;

*(a) ...

*(b) ...

*(c) ...

*(d) ...

*(e) ...

*(f) ...

*(g) ...

*(h) ...

- 10

15

*(i) ...

(j) Unlawful possession of explosives, ammunition, bomb or any materials for making of any of the foregoing.

^h clients for the offence of terrorism are; The mgre

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- a. Unlawful Possession of explosives ammunition bomb or materials for making explosives or ' ' ammunition or bomb indiscriminately and without due regard to the safety of others or property;

- 5

- b. Intent to intimidate the public or a section of the public and for political or religious or social or economic aim; and

C. Participation of the accused person

In respect to the ingredient of Unlawful Possession of explosives, ammunition, bomb or materials for making explosives or ammunition or bomb indiscriminately and without due regard to the safety of others or property, the prosecution adduced evidence of the statements of AI Marked PID73, 74, 75 10 and 76, statements of Nakato Annet Nakibirango marked PID81 and 82, statements of police officers No. 63831 D/C Tugeineyo Wycliffe marked PID117 and No. 60597 D/C Muhinda Codine marked

PID119 and Forensic Analysis Reports admitted as PID214 and PID215.

In reply the accused's counsel submitted that AI's statement that the prosecution seeks to rely on was a charge and caution statement recorded on 19th November 2021 which is 2 weeks after AI's arrest 15 and that this affects the validity of the charge and caution statement.

Counsel submitted that the materials found in AI's bag can only be used in combination with other compounds to produce IEDs. That since AI was not in possession of other materials, it cannot be concluded that AI was found in possession of explosives.

I have perused the exhibits cited by the prosecution and as well considered the submissions of both

20 parties in respect to this ingredient. I will first address the accused's submission that the charge and caution statement recorded on 19th November 2021 is invalid.

R.4 of the Evidence (Statements to Police Officers) Rules SI 6-1 provides that;

'Where a police officer has decided to charge a person with an offence, he or she shall administer a caution before questioning or, as the case may be, continuing to question that person. '

R.9 and 10 of the Evidence (Statements to Police Officers) Rules SI 6-1 provide that;

"9. Procedure prior to administering caution.

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5 *Before administering a caution to a prisoner a police officer shall--*

(a) charge him or her with an offence; or

(b) inform him or her of the nature of--

(i) the charge which is likely to be preferred against him or her;

(ii) the act or acts in respect of which it is contemplated taking proceedings against him or her; or

10 *(iii) the matter which the police officer is investigating; and*

(c) ask him or her if he or she wishes to say anything about the matter.

10. Form of caution.

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The caution to be administered under these Rules shall be in the following words-

"You need not say anything unless you wish, but whatever you do say will be taken down in writing and may be given in evidence."

In their submissions, the prosecution relied on PID73-77 which are all A1's statements. PID73 and 74 are both plain statements of the accused. The statement that the accused seeks to challenge is PID74 dated 19th November 2021.

I have perused the charge and caution statements marked PID75-77 and established that they were 20 administered from the SID headquarters in Kireka by Inspector of Police Nyanzi Rashid - KMP

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North-Kawempe. In taking the said statements, the officer started by charging A1 with the offences in question and informed him of the nature of the charge which is likely to be preferred against him and asked him whether he understood, to which he answered 'yes'. Thereafter the officer cautioned him in the words under R.10 as stated above.

5 Premised on the foregoing, I find the charge and caution statements valid and the evidence therein compelling and I will rely on the same.

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In his statement, A1 stated that he went to the home of his sister, Nakitende Robinah, while carrying a blue chest bag containing a bomb. He further stated that he later went to another sister, Nakata Annett's home, while still carrying the said bag and that that is where he left the bomb when he fled. 10 This was corroborated by the statement of Nakata Annett PID81-82 where she stated that A1 came

to her home with a navy blue bag which he left behind upon escaping.

In his statement marked PID17, Tugeineyo Wycliffe a police officer attached to crime intelligence confirmed the contents of the bag when he stated that while conducting a search at Nakato's home, he recovered a bag containing an object with wires which he suspected to be a bomb in the room that

15 A1 was sleeping in. His suspicions were confirmed when he called his supervisors who called the bomb experts who detonated the bomb. He further stated that upon arrest, A1 admitted that the bomb recovered from Nakato's home was his. In light of the above, it is clear that A1 was in unlawful possession of a bomb without due regard to the safety of others or property.

In respect of the ingredient as to whether there was intent to intimidate the public or a section of the 20 public and for political or religious or social or economic aim, the prosecution submitted that from the charge and caution statement of At, At had the Improvised Explosive Device (IED) with the sole intention and well knowing that the same was going to be used by himself to terrorize the public or a section of the public and for a political or religious or social or economic aim. In reply the accused's

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Counsel submitted that there is no evidence whatsoever adduced that A1 had any intention to intimidate the public or a section of the public and for political or religious or socio-economic aim. That the IED was given to him by a one Abdallah for security purposes but there is no evidence whatsoever to indicate that he planned to use it or had formed the mind of using it at all.

5 In his statement, A1 stated that he was reading Islamic literature on how to expand and dominate the world in 2019, which literature indicated that the rules and regulations of Islam encourage Muslims to die as heroes when they kill a non-Muslim who does not support Islamic expansion in the country and in the world. A1 further stated that a one Abdallah Wanjusi had given him a blue chest bag containing a bomb with instructions to detonate it and die with security personnel in case they came

10 to arrest him.

This is corroborated by the statement of Tugeineyo Wycliffe, a police officer attached to cnme intelligence, who stated that upon arresting A1, A1 admitted that he was in the group of suicide bombers who blew themselves up in Swift Safari Bus in Mpigi and the Kampala bombers.

At's own statement shows that from his reading of Islamic literature, he believed that the rules and 15 regulations of Islam encourage Muslims to die as heroes when they kill a non-Muslim who does not support Islamic expansion, which would explain why he was in the group of suicide bombers who blew themselves up in the Swift Safari Bus in Mpigi and the Kampala bombers as confessed to.

This coupled with the fact that A1 had instructions from a one Abdallah Wanjusi to detonate the bomb which was in his possession and to die with security personnel in case they came to arrest him, 20 is an indication that A1 was in unlawful possession of a bomb without due regard to the safety of others or property, with an intention to intimidate a section of the public, who in this case were the security personnel, for religious aims.

Regarding the ingredient of participation of the accused person (A1), the prosecution submitted that the statement of his sister marked PID81 and 82 statement of No. 60597 D/C Muhinda Codine PID ' 119 and the Charge and caution statement of A1 Marked PID7 5 and 7 6 point to the fact that it was Muwonge Yusuf alias Ssemaganda Hamza alias Danze Robert who was found in unlawful possession 5 of an Improvised Explosive Device.

In reply the accused's Counsel submitted that the ingredient of A1's participation has not been proved. I am inclined to agree with the prosecution's submissions as the accused's statement clearly indicates that he was the one found in unlawful possession of an Improvised Explosive Device in a blue chest bag which A1 admitted belonged to him and that he had left it at his sister's place.

10 It follows therefore that from the evidence disclosed by the prosecution, there are substantial grounds to believe that A1 committed the offence of terrorism contrary to Section 7 (1) b) and (2) j) of the Anti-Terrorism Act, 2002 (ATA).

COUNT 2: TERRORISM CONTRARY TO SECTION 7(1) B) AND (2) n OF THE ANTI-TERRORISM ACT, 2002

- 15 The prosecution submitted that on the 30th day of November 2021 at Kijapani village in Wakiso District, for purposes of influencing the Government or with intent to intimidate the public or a section of the public and for political, religious, social or economic aim, A2 Kiyemba Ismail indiscriminately without due regard to the safety of others or property, intentionally and unlawfully possessed materials for making an Improvised Explosive Device (IED).
- 20 The ingredients of terrorism contrary to S.7 of the ATA are laid out and noted as stated when considering Count 1 above and I will not repeat them here. The parties made submissions in respect of each ingredient.

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With regard to the ingredient of unlawful Possession of expl . . .

osives, ammunition, bomb or materials for making explosives or ammunition or bomb indiscriminately did not have due regard to the safety of others or property, the prosecution adduced evidence of statements of A2 marked PID70 71 and ' 72, statements of police officers including No. 027 SPC Buhazi Alex marked PID1 13, D/ AIP Namuhiyi Nathan marked PID1 16, a Search certificate marked PID146 the criminal investigation Report marked PID212 and Forensic Analysis Reports marked PID 214 and PID 215.

In respect of the ingredient of intent to intimidate the public or a section of the public and for political or religious or social or economic aim, the prosecution submitted that from the charge and caution statement of A2, A2 is a member of ADF, a terrorist organization and that he had materials with the 10 sole intention of making explosives or bombs well knowing that the same were going to be used to terrorize the public or a section of the public and for political or social or religious or social or economic aim.

In respect to the ingredient of participation of the accused person, the prosecution submitted that from the statements of police officers including No. 027 SPC Buhazi Alex marked PID1 13, D/AIP 15 Namuhiyi Nathan marked PIDt'16, the Search certificate marked P!D146, the Crime Scene Investigation Report and the Charge and caution statement of A2 marked PID71 and 72, it is Kiyemba Ismail who was found in unlawful possession of materials for making explosives.

In reply the accused's Counsel submitted that A2 was a welder who made a bomb for a one Muzafaru who blew himself in swift bus, upon the request of Muzafaru and for a payment but had no idea what 20 Muzafaru whom he had known as a friend intended to use it for. Counsel submitted that the charges of terrorism against A2 cannot be sustained and as such the charges against him ought to be dropped. With regard to the ingredient of unlawful Possession of explosives, ammunition, bomb or materials for making explosives or ammunition or bomb indiscriminately and without due regard to the safety

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... d 72 A2 nfessed that upon his arrest of others or property, 111 his statement marked PID70, 71 an , co ' ... ul ... one soda gun 3 mortars which he was found 111 possession of 4 magnets, 2 spark plugs, 1 m tl meter, ' ... f ables 4 copper wires of coil produce electnc1ty, a number of charger wues, some copper W!es rom c ' ... th k bombs This is corroborated from spoilt chargers which he admitted where he was us11lg em to ma e · 5 by the statement of D/ AIP Namuhiyi Nathan marked PID116, wherein he stated that he conducted a search at *Al's* premises and recovered materials for making bombs which is confirmed in the search

certificate marked PID146 and the Crime Scene Investigation Report marked PID212.

The recovered items were analyzed at the government analytical laboratory and a laboratory report CI H/Q GEF: 112/2021 made by the Assistant Commissioner D-GAL, Robinah Kirinya. The 10 conclusions of the report were that sample exhibits 19 and 28 are flammable and can be used as primary charges in improvised devices. The report further stated that many of the submitted items, if in sufficient amounts, lengths or numbers may have varied applications in the manufacture of improvised explosive devices. In another laboratory report MPIGI CRB 270/2021 also made by the Assistant Commissioner D-GAL, Robinah Kirinya, it was also stated that exhibits A1, B 1, B2, B3, B4 15 and BS if in sufficient amounts, lengths or numbers as well as in combination with an initiator and charge may be used in improvised explosive devices as projectiles.

From the evidence disclosed by the prosecution, there are substantial grounds to believe that A2 was found in unlawful Possession of materials for making explosives or ammunition or bomb indiscriminately and without due regard to the safety of others or property.

20 In respect of the intent to intimidate the public or a section of the public and for political or religious or social or economic aim and A2's participation, in his statement A2 stated that at a cost of 500 000/ ' ' he made the 30 voltage bomb that Muzafaru used to blow himself in the bus. That after that, he was approached by his uncle Kiyemba Sharifu who offered him 400,000/ to make him a 50 voltage bomb

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which he was to blow in Ma,ch 2022 afet the govetnment tension had ,educed on Muzafaro's bomb. *A2* finthet stated that by the time of his a,tes~ he had started gathering the matecia!s fot making the bomb. This shows that *A2* knew that the bomb he had made fm Muzafaro had intimidated the public but still ag,eed to make a 50 voltage bomb fot Kiyemba Sha,ifu who offeted him 400,000/ well awm 5 that the same was to be blown in Ma,ch 2022 afet the government tension had ,educed on Muzafaru's

bomb.

2002.

It is my finding that the pwsecution has disclosed sufficient evidence to show that A2 had the intention to intimidate the public when he agreed to make a bomb for Kiyemba Sharifu well knowing how Muzafaru's bomb had been utilized and how Kiyemba Sharifu intended to utilize a higher voltage

10 bomb in the same way in Ma,ch 2022 ostensibly afet the government tension on Muzafaru's bomb had reduced.

From the evidence disclosed by the prosecution, there are substantial grounds to believe that A2 committed the offence of terrorism contrary to Section 7(1) b) and (2) j) of the Anti-Terrorism Act,

15 COUNT 3: BELONGING OR PROFESSING TO BELONG TO A TERRORIST ORGANIZATION CONTRARY TO SECTION 11 (1) (A) AND (3) OF THE ATA.

The prosecution submitted that it is alleged that A1 Muwonge Yusuf, A2 Kiyemba Ismail, A3 Bogere Muniru, A4 Jjuko Bashir Kiwanuka alias Fred, A5 Kisiitu Mohammed, A6 Bakyayita Hamuza, A7 Mutiwa Huzaifa Ismail, AS Wambedde Twaha, A9 Nsubuga Nadir Faisal, A10 IshaqJero, A11 Kiryowa 20 Jamadah Afan a.k.a Wakida, A12 Ssebunya Hassan, A13 Musinguzi Sadiq and A14 Bbumba Ammar alias Umar (the accused) and others still at large between 2017 to date, belonged or professed to belong to Allied Democratic Forces (ADF), a Terrorist Organization.

Section 11 (1) (a) and 3 of the Anti -Terrorism Act 2002 provides that;

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/'1 person who belongs or professes to belong to a temJrist organization [. .} commits an offence ... *and is liable, on conviction, to imprisonment not exceeding ten y ears or a fine not ex ceeding five hundred currenry points, or both.* "

As rightly submitted by both parties, from the above, the elements of the offence are;

- 5 1. The accused must have belonged or professed to belong to an organization
- 11. The organization must be a terrorist organization
- m. They all had a common intention

I will consider the submissions made by both parties and the evidence disclosed by the prosecution. Element 1 and 2 will be dealt with jointly.

10 The accused must have belonged or professed to belong to an organization which is a terrorist organization

The prosecution relied on the Charge and caution statements of A1(PID71 & 72) and A2(PID75 & 76) to show that A1 & A2 belonged to ADF organization together with A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13 and A14. That this is corroborated through the evidence found in the Analysis 15 phone matrix report by Namara Robinson Rogers in PID213, Statements of the L. C 1 Chairman

Lweza Zone 8 in PID53, PID54 and PID68.

The prosecution submitted that from section 2 of the Anti- Terrorism Act 2002 as amended it is , , clear that the Allied Democratic Forces(ADF) is a confirmed terrorist organization in Uganda. The prosecution submitted that all the fourteen accused having a common intention to belong to ADF 20 which is a terrorist organization.

In reply the accused's Counsel submitted that nowhere in the charge

and caution statements of Aland *A2* is it mentioned that the accused persons belonged to or professed to belong to ADP and there is no evidence what so ever linking the accused persons to ADF. That the phone matrix relied upon by the prosecution simply show communication between different individuals which could be for various reasons and in relying on phone matrix the prosecution seeks to solely rely on circumstantial evidence to connect A3, A4, A5, A6. Counsel submitted that the prosecution's evidence presented does not in any way disclose common intention to warrant confirmation of the charges of belonging to a terrorist group against A1 to A14.

Section 2 of the Anti- Terrorism Act, 2002 defines a terrorist organization as an organization specified in the second schedule. The Allied Democratic . Forces (ADP) organization that the 10 prosecution states that the accused belong to is listed as a terrorist organization in the second schedule.

I have perused the Charge and caution statements of A1(PID71 & 72) and the statements of A2(PID75 & 76) but did not find any indication that A1 or *A2* belonged or professed to belong to ADP organization. However, the analysis phone matrix report (PID213) conducted by Namara Robinson Rogers an investigation officer indicates that *A2* is a known ADP operative. This was corroborated

15 by the statement of Ssali Muhamad, the LC 1 chairman of Lweza Zone B who stated that A2 was a member of the group meeting at Nsubuga's house teaching on creating an Islamic state and encouraging its members to behave like Bokoharam, Al-Shabaab and other similar groups.

From the evidence disclosed by the prosecution, I find that there are substantial grounds to believe that *A2* belongs to ADF a terrorist organization under the second schedule of the ATA.

20 Common intention

The principle of common intention is laid out under **Section 20 of the Penal Code Act** and provides that;

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"When two or more persons form a common intention to prosecute an unlawful purpose in co'!} unction with one another, and in the prosecution of that purpose an effence is committed of such a nature that its commission was a probable consequence of the prosecution of that purpose, each of them is deemed to have committed the effence. "

Common intention was elaborated in the case of No.441 PC **Ismail Kisegerwa and another Versus 5 Uganda Criminal Appeal No. 6/1978** where it was held that;

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"In order to make the doctrine of common intention applicable it must be shown that the accused had shared with the actual perpetrator of the crime a common intention to pursue a specific unlauful purpose which led to the commission of the effence. "

The prosecution submitted that the evidence adduced proves that all the accused persons had a 10 common intention to belong to ADF terrorist organization. According to the analysis phone matrix report (PID213) conducted by Namara Robinson Rogers an investigation officer, the report stated that investigations on the Mpigi bomb attack pointed to A9, A10, All, A12, A13 and A14. It further stated that A10 and A12, A13, and A14 are members of the Lweza-Kajjansi ADF cell. It also pointed out that All was a close associate to Manisur Uthman who expioded himself at CPS as Manisur kept 15 his suicide device at All's egg store at Bwaise. The report also indicates that All

was directly in touch with Wanjusi Abdul who died in a suicide bomb at Parliamentary A venue.

The report also shows that A9 is an associate of A12 an ADF operative and has links with A10 and A14. This is corroborated by the statement of Ssali Muhamad, the LC 1 chairman of Lweza Zone B who stated that AS and A9 were also members of the group meeting at Nsubuga's house teaching on 20 creating an Islamic state and encouraging its members to behave like Bokoharam, Al-Shabaab and

other similar groups. He further stated that A9 is a close friend to A2 which was also corroborated by Ndagire Sharifa, A2's sister. The evidence disclosed by the prosecution is sufficient to establish reasonable grounds to believe that AS, A9, A10, All, A12, A13 and A14 had a common intention of

belonging or Professing to Belong to a Terrorist Organization Contrary to Section 11 (1) (a) and (3) of the ATA.

ORDERS

- 1. The evidence presented by the prosecution during the pre-trial hearing sufficiently substantiates the charges in count 1 and 2 of Terrorism Contrary to Section 7(1) b) and (2) j) of the Anti-Terrorism Act, 2002 (ATA) as against Al Muwonge Yusuf Alias Ssemaganda Hamza Alias Danze Robert and A2 Kiyemba Ismail.
- 2. The Court hereby confirms the charges in count 1 and 2 of Terrorism Contrary to Section 7(1) b) and (2) j) of the Anti-Terrorism Act, 2002 (ATA) as against Al Muwonge Yusuf Alias Ssemaganda Hamza Alias Danze Robert and A2 Kiyemba Ismail.
- 3. The Court confirms the charges in count 3 of Belonging or Professing to belong to a terrorist Organization contrary to Section 11 (1) (a) of the ATA as against A2 Kiyemba Ismail, AS Wambedde Twaha, A9 Nsubuga Nadir Faisal, A10 Ishaq Jero, All Kiryowa Jamadah Afan A. KA Wakida, A12 Ssebunya Hassan, A13 Musinguzi Sadiq and A14 Bbumba Ammar Alias Umar.
- 4. The Accused persons are hereby referred for trial before the designated trial panel.
- 5. The evidence disclosed by the prosecution in respect of A3 Bogere Muniru, A4 Jjuko Bashir Kiwanuka Alias Fred, A5 Kisiitu Mohammed, A6 Bakyayita Hamuza and A7 Matiwa Huzaifa Ismail is not sufficient to sustain the charges against A3 Bogere Muniru, A4 Jjuko Bashir Kiwanuka Alias Fred, A5 Kisiitu Mohammed, A6 Bakyayita Hamuza and A7 Matiwa Huzaifa Ismail and declines to confirm the charges.
- 6. A3 Bogere Muniru, A4 Jjuko Bashir Kiwanuka Alias Fred, A5 Kisiitu Mohammed, A6 Bakyayita Hamuza and A7 Matiwa Huzaifa Ismail are accordingly acquitted.
- 7. It is ordered that the proceedings' records and this decision be forwarded to the Head of the International Crimes Division for the next steps.

Delivered at Kampala this 27th day of February, 2024.

5 *Ric* . wire, JUDGE I

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