

REPUBLIC OF SOUTH AFRICA



SOUTH GAUTENG HIGH COURT, JOHANNESBURG

CASE NO: A82/2013

(1) REPORTABLE: YES / NO  
(2) OF INTEREST TO OTHER JUDGES: YES/NO  
(3) REVISED.

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DATE

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SIGNATURE

In the matter between:

**CHUMLONG, LEMTONGTHAI**

**APPLICANT**

**And**

**THE STATE**

**RESPONDANT**

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**Summary**

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**TSOKA J; LEVENBERG AJ**

This is an application for leave to appeal against the sentence. The appellant was charged in the Regional Court of Kempton Park with 26 counts for contravening section 80 (1) (i) of Customs and Excise Act 91 of 1994, in that he unlawfully and intentionally made improper use of documents issued as per

column 1 and 3 of schedule A, in respect of goods to which the Customs and Excise Act relates, to wit, export of rhino horns.

The appellant is a Thai citizen, and a director of a Thai company known as Xaysanang Trading Export-Import. The Company deals with rhino horns, lion bones, teeth and claws. He was involved in the shooting of rhinos after legal hunting permits were issued to him for trophies.

This was a misrepresentation to the South African Authorities by the appellant. After the permits were thoroughly checked and cleared by the Customs and Nature Conservation, the appellant changed the addresses as they appeared on the CITES (Conservation International Trade in Endangered species of Fauna and Flora) permits, with the result that the rhino horns ended up in Laos and Thailand. The people reflected on the permits as professional hunters were in fact prostitutes hired by the appellant to mislead the South African Authorities. It also emerged that the appellant was a member of a syndicate that operates from Thailand and specialises in dealing in rhino horns.

The Court had to determine whether the trial court exercised its discretion properly in imposing the sentence of 40 years imprisonment. Although the appellant had legal permits to shoot the rhinos, he intentionally lied to the authorities. The permits were issued to him fraudulently to legitimize his unlawful and criminal activities. The offences were premeditated. The appellant knew that the killing of rhinos for trading is a serious crime.

The sentence must not only serve as warning to the appellant but must also serve as deterrent to all those who intent to

embark on illegal activities of dealing in rhino horns. Poachers must know that in the event they are caught, they would be prosecuted, and a proper and fitting sentence would be imposed on them. Courts should not shirk their responsibilities in meting out the appropriate sentences in appropriate cases. These ancient and magnificent animals must be protected.

Having regard to the serious nature of the offences, the personal interest of the appellant and the interest of justice, a just and appropriate sentence, in the circumstances, would be 30 years imprisonment.

The sentence imposed by the trial court is therefore set aside and substituted with a sentence of 30 years imprisonment.