THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATE'S COURT OF PALLISA AT PALLISA.

CRIMINAL CASE NO. **PAL-00-CR-CO-306-2024**

UGANDA :: PROSECUTION

VS

KALULE SULAIMAN ::ACCUSED

BEFORE:

H/W KYEMBE KARIM ESQ MAGISTRATE G.I

JUDGMENT

Introduction

The accused was arraigned vide charge sheet dated 23rd /December /2024 and sanctioned the same day, the accused was charged with one count of Store breaking contrary to ***formerly Sections 297 and 298 of the penal code Act cap 120, laws of Uganda, now section 277 and 278 of the Penal Code Act now, cap 128*** and one count of theft contrary to formerly Section 254(1) and 261 of the penal code Act cap 120, now **Section 237 and 244 Penal code Act, cap 128,** Laws of Uganda, 2023 revised edition.

Factual background

Count1: It was the prosecution allegation that the accused in the night of 19th -20th December, 2024 at Kalalaka "A" Cell, West ward, Pallisa Town council in Pallisa did break and enter the store of a one, Masawa Margaret with intent to commit there a felony of theft.

Count 2: it was also the prosecution allegation that the accused on the same 19th -20th December, 2024 at Kalalaka "A" Cell, West ward, Pallisa Town council in Pallisa stole 05 male turkeys worth UGX. 550,000/=, 10 hens worth UGX. 250,000/=, 01 hand hoe, worth 12,000/= all valued at approximately UGX. 812,000/= (eight hundred twelve thousand shillings only), the property of a one, Masawa Margaret.

When the charges were read to the accused, he denied both charges and a plea of NOT GUILTY accordingly entered.

By denying the charges, the Accused put in issue all and every essential ingredient of the offences with which he is being charged.

The prosecution bears the onus to prove the ingredients beyond reasonable doubts as categorically laid out in **MILLER VS MINISTER OF PENSIONS (1947)2 ALLER ER 372.**

The burden does not shift to the accused and the accused is only convicted on the strength of the prosecution case; - Not on the weakness of the accused's defense, as held in **SEKITOLEKO VS UGANDA (1967) EA 531.**

Bearing the above principles in mind, I have also cautioned myself that the accused has no obligation to prove his innocence.

In attempt to prove the charges, the prosecution first called the complainant who testified as **Pw1-Masawa Margaret.**

She told court that the accused s a resident of their village and he stay about 300 meters from where pw1 stays. That on the 19th December, 2024, she woke up at around 3:00am and woke up her children in

preparation to go and plough their gardens which are a distance away. That while attempting to open the door, she found it difficult and on reaching out her hand, she realized that they had been locked inside the house using the outside locks. That on flashing her torch towards the other rooms, she realized the locks had been broken but the door casually shut and on flushing inside, she realized that her 5 male turkeys, 10 chickens, and one hand hoe had been taken. That having lost 5 heads of cattle on a previous occasion, she was so sad and decided to let the children proceed with the ploughing plans while for her, she stayed upto around 6:00am. That at around 9:30 am after consulting the husband, she went and reported at police, upon which, the police brought the sniffer dog which, upon introduction to the scene of crime picked a scent and followed the same upto the accused's house of which they found shut but not locked and the dog entered and tried to grab the accused but the dog handler restrained it and instead walked the accused out of the house.

Pw2- Ninsiima Anita told court that on the said day at around 3:00am, Pw1 came and told them that someone had stolen from them. It was the items already mentioned by Pw1. That when Pw1 went to report at police, she (Pw2) stayed home alone and no one else came until the police sniffer dog arrived.

No. 62529 D/C Willy Bernard testified as **Pw3.**

He told court that upon the aid of Pw1, he identified the scene of crime and drew a sketch plan and took pictures of how the police sniffer dog progressed with its investigation. The sketch plan was admitted as **PEX1** while the photographs collectively admitted as **PEX2.**

No.68234 –D/C Iwalwa Samuel Grace the dog handler testified as **Pw4.** After laying out her qualifications and experience, she told court how she introduced the dog to the scene of crime and how the dog followed the scent upto the accused's house whereof he was found and the dog wanted to grab him but she restrained it.

This court is aware of the principle laid out in **University of Ceylon VS Fernando (1960), WLR 233** to the effect that the opportunity to cross examine the adversary witness is a fundamental one but where that opportunity is extended and the party does not take it up, does not amount to denial of that opportunity.

In this case, the Accused duly exploited the Opportunity.

On the 08th April, 2025 upon closure of the prosecution case, this court ruled that a prima facie case had been established and the accused according put on defence.

This court reminded and cautioned itself of the principle laid down in **WIBIRO ALIAS MUSA VS REPUBLIC (1960) EA 184** Whereof it was stated that:-

> *"this court is not even obliged at this time to find whether the evidence is worthy of too much credit or if believed, is weighty enough to prove the case beyond reasonable doubts. That conclusion can only be made after the defence case is heard."*

All the three modes of defence were explained to the accused. That is;

1. Give evidence on oath whereby he would be subjected to cross examination.

2. Give evidence not on oath whereby he is not subject to cross examination.
3. Elect to keep silent.

The accused opted to give evidence on oath.

After taking oath, the accused testified as his own only witness and his testimony was taken down as **DW1**.

Dw1 told court that on the morning of the said day, a one, Namwa called him on phone and told him that she had a function and required them, as brothers to attend. That he went and attended for a short time but later returned for work. That on his way to take a shower, that's when he saw the police approach him and stood by the door and the police officer advised him to walk out slowly. That he indeed walked out but the police officer remained in the house for about 5minutes before later coming out, upon which, the other police office told him to put on his shirt and told him to get onto the awaiting car.

EVALUATION OF EVIDENCE:

Count 1: *Store breaking Contrary to formerly Sections 297 and 298 of the penal code Act cap 120, laws of Uganda, now section 277 and 278 of the Penal Code Act now, cap 128*

The offence of store breaking is created under **Section 297 and 298 of the Penal Code Act cap 128.** It provides:

Section 297. Any person who—

a) breaks and enters a schoolhouse, shop, warehouse, store, office or counting house or a building which is adjacent to a dwelling house

and occupied with it but is no part of it, or any building used as a place of worship, and commits a felony in it; or

b) having committed a felony in a schoolhouse, shop, warehouse, store, office or counting house or in any such other building as mentioned in paragraph (a), breaks out of the building, commits a felony and is liable to imprisonment for seven years.

Section 298. Breaking into building with intent to commit felony.

Any person who breaks and enters a schoolhouse, shop, warehouse, store, office or counting house, or a building which is adjacent to a dwelling house and occupied with it but is no part of it, or any building used as a place of worship, with intent to commit a felony in it, commits a felony and is liable to imprisonment for five years.

The ingredients of this offence are:

i. a building used as a store
ii. adjacent to a dwelling house
iii. breaking and entering
iv. intent to commit a felony
v. participation of the accused

Ingredient i & ii – building used as adjacent to dwelling house:

Section 2 (d) of the Penal Code Act defines *"dwelling house"*

to include any building or structure or part of a building or structure which is for the time being kept by the owner or occupier for his or her residence or that of his or her family or servants or any of them, and it is immaterial that it is from time to time uninhabited; a

building or structure adjacent to or occupied with a dwelling house is deemed to be part of the dwelling house if there is a communication between such building or structure and the dwelling house, either immediate or by means of a covered and enclosed passage leading from the one to the other, but not otherwise;

PW1 testified that:

"…I woke up at around 3:00am and woke up my children in preparation to go and plough our gardens which are a distance away. While attempting to open the door, I found it difficult and on reaching out my hand, I realized that we had been locked inside the house using the outside locks. On flashing my torch towards the other rooms, I realized the locks had been brocken but the door casually shut and on flushing inside, I realized that my 5 male turkeys, 10 chickens, and one hand hoe had been taken…"

By this evidence, I am satisfied that the complainant's dwelling house was adjacent to her other rooms whereof she kept her, now suspected stolen turkeys, chickens and hand hoe. Ingredients i & ii were proved beyond reasonable doubts by the prosecution.

Ingredient iii & iv- breaking and entering & intention to commit a felony:

This court has perused **prosecution exhibits PEX1**- sketch plan of the of the scene of crime and the different stages the police dog followed and **PEX2**- the pictures of the same.

PW1 testified that:

"…While attempting to open the door, I found it difficult and on reaching out my hand, I realized that we had been locked inside the

house using the outside locks. On flashing my torch towards the other rooms, I realized the locks had been brocken…"

By that evidence, this court is also satisfied that there was a breaking into the rooms whereof the complainant kept her turkeys, chickens and the hand hoe.

As regards the intention to commit a felony, Pw1 also testified that:

> "*…I realized the locks had been brocken but the door casually shut and on flushing inside, I realized that my 5 male turkeys, 10 chickens, and one hand hoe had been taken…"*

In **R VS CUNNINGHAM (1957)2 QB 396**, court stated that *mensrea* is the actual intention to do a particular kind of harm or recklessness as to whether such harm will occur or not.

In this case, I am satisfied that whoever locked Pw1 together with her family in their house and later broke the locks on the neighboring rooms whereof she kept her turkeys, chicken and hand hoe had an intention to commit a particular harm.

I am also satisfied that that harm was actually actuated when the *5 male turkeys, 10 chickens, and one hand hoe* were stolen and have never been recovered. This ingredient was proved to the satisfaction of court.

Ingredient v –participation of the accused

On this ingredient, this court is under duty to approach it with sober mind, especially as regards identification. Evidence of identification is a cause for unease, given that the offence was committed at night.

Pw1 testified that:

"…I woke up at around 3:00am and woke up my children in preparation to go and plough our gardens…"

The implication of that evidence is that by 3:00am when she woke up, the said turkeys, chickens and hand hoe hald already been stolen.

The rules regarding identification of suspects in offences commited during the night were laid down in **Roria vs. Republic [1967] E.A. 583.**

The reason for this is that there is greater danger of convicting an innocent person on such evidence, than is the case with other forms of evidence.

While even the evidence of a single identifying witness can suffice to found a conviction, it is less safe to do so than is the case with multiple identification witnesses; and therefore, the Court is under duty to satisfy itself that in all the circumstances of the case, it is safe to act on such evidence of identification.

These principles were followed by the Supreme Court of Uganda in **Bogere Moses & Anor. vs. Uganda – S.C. Crim. Appeal No. 1 of 1997**; which cited with approval, the case of **Nabulere vs. Uganda – Crim. Appeal No. 9 of 1978; [1979] H.C.B. 77,** in which the Court had clarified that;-

"…the need for the exercise of care arises both in situations where the correctness of disputed identification depends wholly or substantially on the testimony of a single or multiple identification witnesses; and that the Court must warn itself and the assessors of

the special need for caution before arriving at a conviction founded on such evidence…"

The Court further stated that:

"…The reason for the special caution is that there is a possibility that a mistaken witness can be a convincing one, and that even a number of such witnesses can all be mistaken. The Judge should then examine closely the circumstances in which the identification came to be made particularly the length of time, the distance, the light, the familiarity of the witness with the accused."

All these factors go to the quality of the identification evidence. If the quality is good the danger of mistaken identity is reduced but the poorer the quality the greater the danger.

When the quality is good, as for example, when the identification is made after a long period of observation or in satisfactory conditions by a person who knew the accused before, a Court can safely convict even though there is no other evidence to support the identification evidence, provided the Court adequately warns itself of the special need for caution."

In **George William Kalyesubula vs. Uganda – S.C. Crim. Appeal No. 16 of 1997,** the Supreme Court of Uganda further upheld this position, citing with approval the **Roria case (supra),** and **Abdulla bin Wendo & Another v. R (1953) 20 E.A.C.A 166;** reiterating the need for testing, with the greatest care, identification evidence; especially when such identification was made under difficult and unfavorable conditions. The Court then advised that:

"In such circumstances what is needed is other evidence pointing to guilt from which it can reasonably be concluded that the evidence of identification can safely be accepted as free from the possibility of error."

In **Moses Kasana vs. Uganda – C.A. Crim. Appeal No. 12 of 1981; [1992-93] H.C.B. 47,** a decision which was cited with approval in the **Bogere case (supra),** the Court emphasized that where conditions favoring correct identification are poor, there is need to look for other evidence, direct or circumstantial to allay any doubt in the mind of the trial Court of any case of mistaken identity.

In **Yowana Sserunkuma vs. Uganda, S.C. Cr. Appeal No. 8 of 1989,** the Court further explained that it is trite law that the evidence of a single identifying witness at night may be accepted, but only after the most careful scrutiny;

In **Abdullah bin Wendo vs. R. (1953) 20 E.A.C.A. 166 at 168;** and in **Roria vs. R. [1967] E.A. 583)**. Court stated that a careful scrutiny is not the same thing as an elaborate justification accepting dubious evidence.

As this case is based on evidence of identification, the Court is guided by the case of **Badru Mwindu vs. Uganda; C.A. Crim. Appeal No. 1 of 1997,** which is authority for the proposition that the inculpatory evidence of identification adduced by the victim of the criminal act is the best evidence.

In the instant case before me, the only evidence identifying the accused was that of the police canine sniffer dog.

Generally, evidence of sniffer dogs is not fully developed within our criminal justice system. Reliance on evidence of sniffer dogs should be taken with caution. In the cases of **Abdallah Bin Wendo and Anor v R [1953] 20EACA165** and **Omondi And Anor v R 1967 EA 802** it was held that the evidence of sniffer dogs should be admitted with caution and great care.

> *"…There should have been evidence of the experience of the dog handler in training and handling of the dog. And secondly the experience of the dog itself. There should be evidence to show the number of arrests and degree of accuracy effected by the dog ending up in successful prosecution. There should be evidence about the conduct of the accused before and during arrest when confronted by the dog…"*

Testifying as Pw4, **No.68234 –D/C Walwa Samuel Grace** - the dog handler laid out for court how the police sniffer dogs operate, specifically, beauty, the dog in question. She also demonstrated her qualifications, experience and age of the dog. She also told court how, upon being introduced to the crime scene, the dog followed a scent through several paths, along the way, when the dog entered a house, it reacted to the accused and wanted to attack him but she restrained it.

The Court of Appeal for Eastern Africa in the case of **Abdallah bin Wendo and anor v R**[supra] observed at page 167,

> "*…We are fully conscious of the assistance which can be rendered by trained police dogs in the tracking down and pursuit of fugitives, but this is the first time we have come across an attempt to use the actions of a*

dog to supply corroboration of an identification of a suspect by an homo sapiens.

We do not wish it to be thought that we rule out absolutely evidence of this character as improper in all circumstances but we certainly think that it should be accompanied by the evidence of the person who has trained the dog and who can describe accurately the nature of the test employed…"

Sniffer dog evidence was also considered in the Kenyan case of **Omondi and Anor v R [1967] E A 802, supra** where the High Court observed as follows at page 807,

'But we think it proper to sound a note of warning about what, without undue levity, we may call the evidence of dogs. It is evidence which we think should be admitted with caution, and if admitted should be treated with great care. Before the evidence is admitted the court should, we think ask for evidence as to how the dog has been trained and for evidence as to the dog's reliability.

To say that a dog has a thousand arrests to its credit is clearly, by itself, quite unconvincing.

Clear evidence that the dog had repeatedly and faultlessly followed a scent over difficult country would be required, we think, to render this kind of evidence admissible. But having received the evidence that the dog was, if we might

so describe it, a reasonably reliable tracking machine, the court must never forget that even a pack of hounds can change foxes and that this kind of evidence is quite obviously fallible."

The High Court in Uganda has followed, and correctly in my view, the principles set out in the foregoing cases in dealing with reception of dog evidence. One of the most recent such cases is **Uganda v Muheirwe and Anor HCT-05-CR-CN-0011 of 2012 at Mbarara High Court District Registry.** After a review of comparative jurisprudence from around the world and from Uganda too, **Gaswaga, J**., proposed the following principles to guide trial courts with regard to admissibility and reliance on dog evidence. He opined,

"…Therefore, from the above discourse, the following propositions are made as principles that may govern the considerations for the exclusion or admissibility of and weight to be attached to tracker (sniffer) dog evidence:

a) The evidence must be treated with utmost care (caution) by court and given the fullest sort of explanation by the prosecution.
b) There must be material before the court establishing the experience and qualifications of the dog handler.
c) The reputation, skill and training of the tracker dog [is] require[d] to be proved before the court (of course by the handler/ trainer who is familiar with the characteristics of the dog).
d) The circumstances relating to the actual trailing

must be demonstrated. Preservation of the scene is crucial. And the trail must not have become stale.

e) The human handler must not try to explore the inner workings of the animals mind in relation to the conduct of the trailing. This reservation apart, he is free to describe the behaviour of the dog and give an expert opinion as to the inferences which might properly be drawn from a particular action by the dog.

f) The court should direct its attention to the conclusion which it is minded to reach on the basis of the tracker evidence and the perils in too quickly coming to that conclusion from material not subject to the truth-eliciting process of cross-examination.

g) It should be borne in the mind of the trial judge that according to the circumstances otherwise deposed to in evidence, the canine evidence might be at the forefront of the prosecution case or a lesser link in the chain of evidence.'

In this case before me, it was the evidence from the prosecution against the accused that the sniffer dog led to his house whereof he was found and the dog wanted to grab him but Pw4 restrained it

I note that during the sniffing exercise, there were other people witnessing the same and no other person was reacted to as the dog reacted to the accused.

I also note that the allegedly stolen items were not discovered with the accused. In his defence, he testified that:

> *"…on the morning of the said day, a one, Namwa called me on phone and told me that she had a function and required us, as brothers to attend. I went and attended for a short time but later returned for work. On my way to take a shower, that's when I saw the police approach me and stood by the door and the police officer advised me to walk out slowly. I indeed walked out but the police officer remained in the house for about 5minutes before later coming out, upon which, the other police office told me to put on my shirt and told me to get onto the awaiting car…"*

The accused has a right against self-incrimination. But once he elects to give evidence, the same can be relied upon by court to resolve a case.

Section 2 of the Evidence Act Cap 8 "evidence" denotes the means by which any alleged matter of fact, the truth of which is submitted to investigation, is proved or disproved and **includes testimonies by accused persons,** admissions, judicial notice, presumptions of law and ocular observation by the court in its judicial capacity. *[bolding and underlining added for emphasis]*

In this case, evidence was also led to establish the training, skills and previous performance of the dog 'beauty' in tracking scents.

The experience and training of the dog handler and her connection with the dog was established satisfactorily. There was proper description as to how the dog operated. I have not found any reason to disbelieve the evidence led by that witness.

I looked at the prosecution **Exhibits PEX1 and PEX2** and the testimony of all witnesses who were present during the sniffing exercise. I am satisfied that the evidence of the sniffer dog passed the tests above set out. Specifically, Pw2 told court that she remained home and no one came thereof to taint the crime scene.

In absence of any reasonable explanation as to why the police sniffer dog acted towards the accused amongst all other persons present during the exercise lives this court satisfied and inclined to reject the accused's general defence of denial alleging that he instead had only gone to the function at Namuwa's and later returned home.

For the reasons given above, I am satisfied that this ingredient was also proved beyond reasonable doubts. In sum total, I find the accused GUILTY of having participated in the consummation of the offence of Store breaking.

Accordingly, I hereby CONVICT him of the offence of Store breaking contrary to ***formerly Sections 297 and 298 of the penal code Act cap 120, laws of Uganda, now section 277 and 278 of the Penal Code Act now, cap 128***.

<u>Count 2:</u> ***Theft contrary to Section 254(1) and 261 of the penal code Act,***

The offence of theft is created under formerly, **Section 254(1) and 261** of the Penal Code Act, Cap 120, and now **Sections 237** and **244** Cap 128 Laws of Uganda, 2023 revised edition.

Section 237 Penal Code Act Cap 128 Laws of Uganda, 2023 revised edition provides:

A person who fraudulently and without claim of right takes anything capable of being stolen, or fraudulently converts to the use of any person other than the general or special owner thereof anything capable of being stolen, is said to steal that thing.

To prove the charge the prosecution has to prove beyond reasonable doubts the following ingredients.

i. The accused fraudulently took something,
ii. Anything capable of being stolen.
iii. the property of someone else
iv. Without claim of right.
v. An intention to permanently deprive the owner of the thing.
vi. Accused's participation

Evaluation of Ingredient i, ii, iii & iv

The legal position in Uganda, as stated by the Supreme Court in **Sula Kasiira vs Uganda S.C. Crim. Appeal No. 20 of 1993,** regarding what the crime of theft is, stands as follows:-

"There must be what amounts in law to an asportation (that is carrying away) of the goods of the complainant without his consent… The removal, however short the distance maybe, from one position to another upon the owner's premises is sufficient asportation… "

Property will be regarded as belonging to any other person having possession or control of it. It is the reason why a person may be liable for theft of their own property if it is deemed to be in the possession or control of another.

For example in ***R v. Turner (No 2) [1971] 1 WLR 901,*** *the accused took his car into a service station for repairs. When he went to pick it*

up he saw that the car was left outside with the key in. He took the car without paying for the repairs. He was found guilty of theft of his own car since the car was regarded as belonging to the service station at the time as they were in possession and control of it.

The prosecution must also prove an intention to permanently deprive the owner of the thing allegedly stolen. This is sometimes called *mensrea*. In **R VS CUNNINGHAM (1957)2 QB 396**, court stated that:

"mensrea is the actual intention to do a particular kind of harm or recklessness as to whether such harm will occur or not."

In the instant case, **No.68234 –D/C Iwalwa Samuel Grace** the dog handler testifying as Pw4 told court that**:**

"… I introduced the dog to the scene of crime and the dog followed the scent upto the accused's house whereof he was found and the dog wanted to grab him but I restrained it…"

Pw1 also testified that:

"…on flashing my torch towards the other rooms, I realized the locks had been brocken but the door casually shut and on flushing inside, I realized that my 5 male turkeys, 10 chickens, and one hand hoe had been taken…"

Pw2- Ninsiima Anita told court that:

"…I stayed home alone and no one else came until the police sniffer dog arrived…"

In his defence, testifying as Dw1, the accused told court that:

"…I went and attended for a short time but later returned for work. On my way to take a shower, that's when I saw the police approach me and stood by the door and the police officer advised me to walk out slowly…"

This court was not satisfied as to why the sniffer dog led to the accused's house. The only reasonable explanation is that he had been at the crime scene. Evidence of Pw2 shows that no one adulterated the crime scene. In absence of evidence to the contrary or discounting the prosecution evidence, I am also satisfied that whoever took Pw1's turkeys, chicken and hoe did not have any claim of right to the same. Even throughout the trial, the said turkeys had not been returned to the rightful owner. I am equally satisfied that whoever took them had an intention to permanently deprive the owner of the same.

This court observed that allegedly stolen turkeys, chicken and hoe belonged to Pw1. Save for oral testimony of Pw1, no documentary evidence was led to prove that fact. But I hasten to mention that oral testimony is sufficient to prove a fact in issue and also, at the time of their alleged theft, they were in the possession of PW1.

Property will be regarded as belonging to any other person having possession or control of it. It is the reason why a person may be liable for theft of their own property if it is deemed to be in the possession or control of another.

For example:

> *in* ***R v. Turner (No 2) [1971] 1 WLR 901,*** *the accused took his car into a service station for repairs. When he went to pick it up he saw that the car was left outside with the key in. He*

took the car without paying for the repairs. He was found guilty of theft of his own car since the car was regarded as belonging to the service station at the time as they were in possession and control of it.

In the instant case before me, PW1 testified that the turkeys, chicken and hand hoe belonged to her. That testimony was not discredited in cross-examination nor by contrary evidence.

In **R VS CUNNINGHAM (1957)2 QB 396**, court stated that *mensrea* is the actual intention to do a particular kind of harm or recklessness as to whether such harm will occur or not.

While an accused is entitled to certain defences, for example, honest claim, of right under **Secton 7** of the Penal Code Act, Mistake of fact under **Section 9** and compulsion under **Section 15** of the PCA, amongst others, the accused did not raise any of those defences. His was a general denial.

I am satisfied that the evidence adduced by the prosecution is adequate and proved beyond reasonable doubts to this court the **ingredients i,ii,iii, iv & v**.

Ingredient vi.- Participation of the accused.

In evaluation of evidence of participation in count 1, I have found the evidence of the sniffer dog quite convincing. Whereas the said turkeys, chicken and hand hoe were not discovered at the accused's house, no evidence was led to show why the sniffer dog ended up at his house and why it reacted to him the way it did yet there were many people witnessing the exercise and no one was reacted to the same way. I haven't seen evidence to show that the allegedly stolen turkeys, chicken

and hand hoe could have been stolen on another date or by someone else.

For that reason, I am also satisfied that this ingredient was also proven by the prosecution beyond doubts.

Accordingly, I hereby find the accused GUILTY and convict him of the offence of theft contrary to formerly, **Section 254(1) and 261** of the Penal Code Act, Cap 120, and now **Sections 237** and **244** Cap 128 Laws of Uganda, 2023 revised edition.

In conclusion, I make the following orders.

1. The accused is hereby found GUILTY and CONVICTED of Store breaking Contrary to formerly Sections 297 and 298 of the penal code Act cap 120, laws of Uganda, now section 277 and 278 of the Penal Code Act now, cap 128

2. The accused is hereby found GUILTY and CONVICTED of the offence of theft contrary to formerly, **Section 254(1) and 261** of the Penal Code Act, Cap 120, and now **Sections 237** and **244** Cap 128 Laws of Uganda, 2023 revised edition.

3. I hereby order that UGX. 812,000/= (eight hundred twelve thousand shillings only) the equivalent value of the stolen turkeys, chicken and hand hoe be paid back to the complainant/Pw1.

4. The accused, now, convict is hereby remanded until sentencing which shall be done after hearing the prosecution and convict on *Allocutus*.

I so order.

Dated at ATIAK this ……24th….day of ……JUNE……..2025

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HIS WORSHIP KYEMBE KARIM

MAGISTRATE GRADE 1