IDENTIFICATION PARADE

It refers to police identification procedure in which a suspect of crime is exhibited with a number of other persons, to be identified by a witness who claims to have seen him at the scene of crime. See section 60(1)-(4) of the CPA, section 38 (1) (2) (3) & (4) of the Police force and Auxiliary Services Act and PGO 232.

POINT TO NOTE WHEN DEALING WITH ID PARADE

(1) It is only necessary if the victim did not know the assailant before the incidence. If he knew him before, no need to conduct it. The rationale is to ascertain whether the witness can identify a person suspected of the crime based on the description he provided before.

(2) ID Parade by itself is not substantive evidence, thus cannot stand alone to convict the accused; it serves the purpose of corroborating dock identification of an accused by a witness in terms of s.166 of TEA.

CASE LAWS:-

- ✓ *MOSES DEO VS R [1987] TLR 134*
- ✓ *Ahmad Hassan Marwa vs Republic, Criminal Appeal No. 264 of 2005 CAT Mtwara (unreported),pg.12 and*

(3) To have any corroborative value, the identifying witness must have given a detailed description of the assailant prior to the ID parade. So the parade is prepared just to confirm whether the person who was described by the victim is the same one they have arrested. If the victim did not provide detailed description of the assailant prior to the ID Parade, it becomes valueless.

CASE LAWS:-

- ✓ *Christopher Chacha @Msabi and Two Others vs Republic, Criminal appeal No. 235 of 2009 CAT DSM (unreported),*
- ✓ *Muhidini Mohamed Lila@Emono &3 others vs R Criminal Appeal No.443 of 2015 CAT DSM (unreported) pg.14*
- ✓ *Ambros Elias v R, Criminal Appeal No.368 of 2018 CAT DSM (unreported),*
- ✓ *NGARU JOSEPH & ANOTHER V R, CRIMINAL Appeal No.172 of 2019 CAT Mbeya (unreported)*
- ✓ *FRED MGAYA v R Criminal Appeal No.77 of 2019 CAT DSM (unreported).*

(4) Since its value is to corroborate dock identification, the identifying witness MUST be called to testify during trial; failure to do so renders no corroboration to have been made. Prosecutors should not make a mistake to refrain from procuring such a witness, may be because the ID parade register has already been admitted in court.

CASE LAW:-

- ✓ *Benson Kibaso Nyankonda @ Olembe Patroba Apiyo v Republic [1998] TLR 40 CA.*

(5) The suspect must be informed of his right to seek the presence of an advocate, if any, when the parade takes place, and at the termination of the parade, he must be asked if he is satisfied that the parade has been conducted fairly, and the reply to that effect must be recorded in the report.

CASE LAWS:

- ✓ *Kanisius Mwita Marwa vs Republic, Criminal Appeal No. 306 of 2013 CAT Mwanza*
- ✓ *Rashid George Mvungi & another vs R Criminal Appeal No.434 of 2016 CAT Tanga (unreported) pg.14*.

(6) Persons selected to make up the parade should be of similar age, height, general appearance and class of life. Their clothing should be in general way similar (PGO 232).

(7) There should be eight or more persons on the parade for one suspect, ten or more for two suspects. If there are more than two suspects, more than one parade will normally be held, with different persons being used to form each parade.

CASE LAWS:-

- ✓ *Emilian Aidan Fungo @ Alex & Another vs Republic, Criminal Appeal No. 278 of 2008 CAT (unreported),*
- ✓ *Republic vs Xc-7535 PC Venance Mbuta (2002) TLR 48*

PROCEDURE TO BE OBSERVED WHEN CONDUCTING ID PARADE

The position stated in the famous East African cases of **Republic Vs Mwango s/o Manaa (1936)3 EACA 39**, and **Simone Musoke Vs Republic 1958 EA 7** is still accepted by our Courts today (the position is similar to **PGO 232**), it states as follows:-

(a) The accused person is to be informed that he may wish to have a lawyer or friend present when the parade takes place.

(b) The identifying witness must have given description of the suspect to the police prior to the conduct of the identification parade.

(c) The officer in charge of the case shall not carry out the identification that he may be present.

(d) The witnesses should not see the accused before the parade.

(e) The accused is place among at least 8 persons of as similar age, height, general appearance and class of life as him or her as possible.

(f) The accused is to be allowed to take any position he chooses and he is allowed to change position after each identifying witness has left if he so wishes.

(g) Witnesses should not be allowed to communicate with each other after they have been to the parade.

(h) The practice is to exclude all persons who have no business at the parade;

(i) Careful notes should be taken after each witness leaves the parade and the notes would include whether the witness identified any person and under what circumstances.

(j) If the witness desires to see the accused walk, hear him speak, see him with his cap on or off, this should be done but all persons in the parade should be asked to do as the witness has requested as a precautionary measure.

(k) The witness should touch the person he/she identifies

(l) At the termination of the parade or during the parade, the accused should be asked if he is satisfied that the parade is being conducted in a fair manner and a note should be made of his reply.

(m) In introducing the witness to the parade, the witness should be told that he will see a group of people who may or may not include the suspected person;

(n) Throughout the parade, it is critical that the parties conducting the parades should act fairly to avoid depreciation of identification as evidence. It is dangerous or wrong to suggest to the identifying witness that the person to be identified is believed to be in the parade.

(o) The leading officer must be a police officer of the minimum level of Assistant Inspector of police.

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