

AFFIDAVIT OF SIMON MWIKWABE MAX

I, SIMON MWIKWABE MAX, Christian, 47 years old resident of Nyangoto Village of Matongo Ward in Tarime District, Mara Region in Tanzania do hereby make oath and state as follows:

1. That I was born, raised and currently live at Nyangoto Village in Matongo Ward of Tarime District in Mara Region, Tanzania and I am conversant with the facts set forth herein;
2. That on December 11, 2008 at about six o'clock in the evening I was at the home of my neighbour by the name Mwita Maswi which is about twenty meters from the water well used by villagers as source of their domestic water supplies. Mwita Maswi's house is also about one hundred meters from the Nyabirama Pit of the North Mara Gold Mine;
3. That while I was talking to Mr. Mwita Maswi outside his house, I saw one police vehicle, a green Toyota Land Cruiser, driving towards the Nyabirama Pit. Owing to the distance from where we were seated outside Mwita Maswi's house I could not identify the persons who inside the police vehicle;
4. That soon after the police vehicle disappeared into the Nyabirama Pit I heard the sound of gunfire coming from the direction of the Pit and I then saw four persons running out of the Pit and into the Village houses pursued by the police officers who were shooting indiscriminately towards the direction of the village where the four villagers had run into;
5. That as the said police officers continued shooting I saw Kiguku Ryoba Kiguku whom I know as a resident of Nyangoto Village running fast and shouting that Mang'weina Mwita Mang'weina had been hit by police gunfire. Upon hearing this, Mwita Maswi and I ran in the direction of Kiguku Ryoba's running and we soon found Mang'weina Mwita Mang'weina lying on the ground crying for help and bleeding heavily from gunshot wounds on his back and abdomen;
6. That as the said Mang'weina Mwita Mang'weina was asking Kiguku Ryoba to help him, the latter called a taxi driver by the name of Odira Charles by cell-phone and asked him to bring a car so as to take Mang'weina to hospital. When Odira Charles brought his taxi to the scene to take Mang'weina to hospital I and many other villagers

dispersed and went to our homes. Moments later I was informed that Mang'weina Mwita Mang'weina had died before reaching hospital;

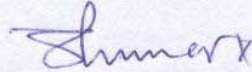
7. That I saw the police officers who were shooting in the air both before and after Mang'weina Mwita Mang'weina was hit by gunfire. These police officers did not attempt to offer any assistance but continued to shoot indiscriminately even as villagers gathered to try to assist Mang'weina Mwita Mang'weina get to hospital;
8. That the incident in which villagers are alleged to have invaded the Mine and set Mine property allegedly worth millions of dollars did not happen at all. On the contrary, soon after learning that Mang'weina Mwita Mang'weina had been shot dead angry villagers set fire to only one Caterpillar loader which was found outside the Mine on the road to Nyabichune locality. The burnt remains of the said Caterpillar loader remain on the scene to this day;
9. That on the morning of January 28, 2009 I was on my way to my farm at Kwimange locality in Nyangoto Village when I stopped by three police officers on the road that passes around the Mine area. The three officers whose names I do not know asked where I was going and when I told them I was going to my farm they let me go on with my journey;
10. That further down the road I met three men, namely Kagesa Nyamuhanga, Chacha Marwa and Muhono Marwa who were going towards Nyangoto Village. Chacha Marwa and Muhono Marwa carried a load of maize each which they told me they were taking to sell at the Nyangoto market;
11. That I had left them for only about ten meters when I heard a burst of gunfire behind me and when I turned around I saw Muhono Marwa crumpled to the ground and both Kagesa Nyamuhanga and Chacha Marwa running towards where I was standing and shouting that Muhono Marwa had been shot. About twenty meters to the left of where we were standing we saw two armed police officers standing on top of the rock piles that separate the Mine from the village area;
12. That when we went to see what happened to Muhono Marwa we found him lying in a pool of blood already dead. We all started to shout to ask for help from other villagers who also came to the scene.

Thereafter, many people including the elected member of Tarime District Council representing Matongo Ward Machage Bartholomew Machage and the Village Chairman Marwa Nyamuhanga arrived on the scene. The police officers who were standing on the rock pile retreated back towards the tailings dam and the process plant of the Mine;

13. That a few moments after the police officers referred to in paragraph 12 above had retreated, a company vehicle, a white Toyota Land Cruiser, driven by a company employee by the name of Domi Zachariah came to where all the villagers were gathered while on the rock pile to the left there appeared a large group of people including police officers and company employees who appeared to be taking pictures of what was going below. Nothing happened to the vehicle and so Domi Zachariah drove off and went back to the Mine compound;
14. That after Domi Zachariah left, two more company vehicles came to the scene this time with both police officers and company employees. The police officers stated that they wanted to take Muhono Marwa's dead body to the company clinic inside the Mine compound. All the villagers present refused to let the police officers to take Muhono's body whereupon more police officers came to the scene with more vehicles. Councillor Machage and Chairman Nyamuhanga then explained the villagers' decision that Muhono Marwa's body would not be taken from the scene until the District Commanding Officer had come to see for himself what had happened;
15. That I remained on the scene of Muhono Marwa's death until about two o'clock in the afternoon when the District Commanding Officer accompanied by the District Medical Officer who then proceeded to carry out an on-the-spot autopsy on Muhono Marwa's body. Following the said autopsy, the District Medical Officer called Chacha Marwa and Kagesa Nyamuhanga, the dead man's relatives that Muhono Marwa had been shot through the shoulder blade with the bullet coming out through the left breast. The District Commanding Officer then allowed the body to be taken away for burial;
16. That as far as I know, none of the police officers who appear to have been responsible has been arrested and no further steps in the form of criminal investigations appear to have been taken;

17. That I believe one of the two police officers who we saw on top of the rock piles carrying guns and later disappeared behind the rock pile into the Mine compound are responsible for shooting death of Muhono Marwa because they were the only people carrying firearms at the time of the shooting;

Dated at Dar es Salaam this 29th April, 2009.

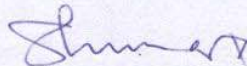


Simon Mwikwabe Max

VERIFICATION


I, SIMON MWIKWABE MAX do hereby verify that all what is stated in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 above is true to the best of my own knowledge and belief.

Verified at Dar es Salaam this 29th day of April 2009.



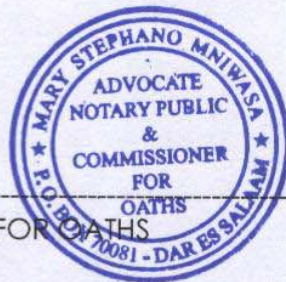
SIMON MWIKWABE MAX

SWORN at Dar es Salaam by the said SIMON MWIKWABE }
MAX who was identified to me by TUNDU A.M. }
LISSU, learned Advocate, the latter being known to me }
personally this 29th day of April, 2009. }



DEPONENT

BEFORE ME:



COMMISSIONER FOR OATHS

DRAWN BY:

Messrs. Tundu A.M. Lissu Advocates
Lawyers' Environmental Action Team
Mazingira House, Plot 428
Laureate Road, Mikocheni B
P.O. Box 21746
DAR ES SALAAM.