

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT VOI

CRIMINAL REVISION NO 7 OF 2018

HASSAN OMAR ABDI APPLICANT

VERSUS

REPUBLIC RESPONDENT

RULING

1. I have looked at the Applicant's application for Revision that was filed on 26th January 2018 and noted his submissions that he can only raise Ksh 10,000/- because his employer disappeared after his animals were released. He has no other means of paying the fine. While I sympathise with him, an offence under the Law was committed and the same must be punished as the scales of justice must cut both ways.

2. In view of the fact that he had one hundred and twenty (120) cattle in the Tsavo East National Park without authorisation and that ignorance is not an excuse, I hereby set aside and/or vacate the order of Hon E G Nderitu of 25th January 2018 that he pays a fine of Ksh 70,000/- and in default to serve six (6) months imprisonment and its place, fine him Ksh 30,000/- and in default to serve three (3) months imprisonment.

3. Indeed, a fine ought not be what a person can afford but rather, it must be commensurate with what is provided under the Law.

4. Orders accordingly.

DATED and DELIVERED at VOI this 31st day of January 2018

J. KAMAU

JUDGE

In the presence of:-

Hassan Omar Abdi - Applicant

Miss Anyumba - for State

Susan Sarikoki – Court Clerk