



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO. 114 OF 2016

MARTIN NJAATIAPPELLANT

versus

REPUBLIC.....RESPONDENT

Consolidated with

CRIMINAL APPEAL NO. 119 OF 2016

DAVID KAMAU.....APPELLANT

versus

REPUBLIC.....RESPONDENT

Consolidated with

CRIMINAL APPEAL NO. 118 OF 2016

LAWRENCE MUGAMBI NTUBIRITHI.....APPELLANT

versus

REPUBLIC.....RESPONDENT

(Being an appeal from the original conviction and sentence in Nanyuki Chief Magistrate's Court Criminal Case No. 998 of 2016 by Hon. W. J. Gichimu Principal Magistrate on 2nd September 2016)

JUDGMENT

1. **DAVID NJAATI, DAVID KAMAU and LAWRENCE MUGAMBI** were charged before the Chief Magistrate's Court at Nanyuki with the **offence of entering into a National Reserve without a permit contrary to section 102 (1)(a) of the Wildlife Conservation and Management Act**. They pleaded guilty to the charge and were each sentenced to fine of kshs. 200,000 and in default 2 years imprisonment. The three have filed their appeal against that sentence.

2. In their various submission in support of their appeal the appellants submitted that they have aged parents, they were bread winners of their family and they were remorseful of the crime they had committed.

3. The facts narrated by the prosecution were that on 31st August 2016 at 1 pm while Kenya Wildlife Services rangers were carrying out their normal patrols within the Mount Kenya National Park they met the three appellants carrying fifteen posts of cedar tree. Each of the appellants were carrying a panga. All the three were unable to produce a permit allowing them to be in the national park.

4. I need to state that from the very outset that the sentence of the trial court is the sentence set out in **section 102(1)(a)** of the Wildlife Act. It therefore follows that the trial court sentence does not attract the interference of this court.

5. Having stated so it needs to be stated that the appellants in committing the offence were destroying precious natural sources of this country. A steep sentence such as the one they received from the trial court ought to deter not only the appellant but also any other person that might be persuaded to commit similar offence.

In view of the above finding the appellants' appeals is devoid of merit and is hereby dismissed.

DATED and DELIVERED at NANYUKI this 29th day of NOVEMBER 2017

MARY KASANGO

JUDGE

CORAM

Before Justice Mary Kasango

Court Assistant: Njue/Mariastella

Appellant: Martin Njaati

David Kamau

Lawrence Mugambi Ntubirithi

For the State:

Language:.....

COURT

Judgment delivered in open court.

MARY KASANGO

JUDGE