

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT VOI

CRIMINAL REVISION NO 11 OF 2017

SIMENDO SITAYA..... APPLICANT

VERSUS

STATE..... RESPONDENT

(From original conviction and sentence in Criminal Case Number 430 of 2017 in the Principal Magistrate’s Court at Taveta delivered by Hon G. K. Kimanga RM on 24th November 2017.

RULING

1. The court has looked at the Applicant’s application for Revision dated 30th November 2017 and filed on 8th December 2017 in which he has sought a revision of the fine from Ksh 60,000/-. Miss Anyumba for the State was not opposed to a reduction of the fine but proposed that the court fines him Ksh 30,000/- and not Ksh 10,000/- as the Applicant had sought.

2. The Applicant was found with eight hundred (800) cattle in the Tsavo National Park but he had indicated that he was not aware that he had encroached into the Tsavo West National Park. Section 102(2) of the Wildlife Conservation and Management Act No 47 of 2013 stipulates that anyone who enters into a national park with livestock for any purpose without authorisation commits an offence. Section 202(3) of the said Act provides that if a person contravenes Section 102(2) of the Act, he is liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment not exceeding six (6) months.

3. As the Applicant is completely unable to pay a fine of Ksh 60,000/- as he had no parents and the default sentence for failure to pay the fine had been fixed at three (3) months which was the same default sentence of failing to pay a fine of Ksh 30,000/-, This court hereby directs as follows:-

a. The fine of Ksh 60,000/- and in default three (3) months imprisonment that was meted upon the Applicant by Hon G K Kimanga, Trial Magistrate on 24th November 2017 is hereby set aside and/or vacated and replaced with a fine of Ksh 30,000/- and in default, the Applicant to serve three (3) months imprisonment.

b. The Applicant’s application for Revision dated 30th November 2017 and filed on 8th December 2017 is therefore successful and the same is allowed.

c. It is so ordered.

DATED and DELIVERED at VOI this 20th day of December 2017

J. KAMAU

JUDGE

In the presence of:-

Simendo Sitaya - Applicant

Miss Anyumba - for State

Susan Sarikoki – Court Clerk