



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL. NO. 34 OF 2016

JOHN KIUNJURI KAMAU.....APPELLANT

-versus—

REPUBLIC.....RESPONDENT

(Being an appeal from the original conviction and sentence in Nanyuki Chief Magistrate's Court Criminal Case No. 673 of 2014 by Hon. J W Gichimu Principal Magistrate on 5th August 2015)

JUDGMENT

1. **JOHN KIUNJURI KAMAU**, the appellant, was charged before the Chief Magistrate's Court Nanyuki with offence of being in **possession of Wildlife trophy Contrary to Section 95 as read with Section 92 of the Wildlife Conservation And Management Act**. The particulars of that charge show that the appellant on 17th July 2014 at Timau area in Meru was found without a permit in possession of wildlife trophy namely four pieces of elephant tusk weighing about 20 Kg worth two million shillings. He was convicted after trial and was sentenced to pay a fine of Ksh.20 million and in default to serve 5 years sentence.
2. Appellant now appeals against that sentence. He relied on his written and oral submission whereby he stated that he is 71 years old, that he is sickly due to unfavourable condition in jail, that he was a first offender, that he is now reformed, and that he has learnt a trade while serving sentence.
3. Senior Principal Prosecuting Counsel Mr. Tanui opposed the appeal. He submitted the sentence in default of payment of a fine was very lenient because **Section 92** provides that in default one would serve life sentence. He submitted that since the appellant's offence was against wildlife which has the effect of wiping out indigenous wild life that the trial court's sentence was lenient.
4. The appellant was convicted of possessing elephant tusks without a permit. To stamp out poaching our wildlife must be made a priority by all players in the country. Elephants are presently regarded as the world's most threatened species. It is because of that that this court finds that the trial court's sentence cannot be faulted. It is lawful. The fact that the appellant is elderly does lessen the need to send home a message to many that may be attracted by the lure of riches in poaching. Accordingly the appellant's appeal is hereby dismissed.

Dated and Delivered at Nanyuki this 19th December, 2016

MARY KASANGO

JUDGE

Coram

Before Justice Mary Kasango

Court Assistant:

Appellant: John Kiunjuri Kamau

For state:

COURT

Judgment delivered in open court

MARY KASANGO

JUDGE