



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**REVISION NO. 48 OF 2015**

**J A .....APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**RULING**

By a letter dated 14/4/2015 Messrs Waichungo Martin & Co. Advocates appalled to the High Court to exercise its revisionary powers in Criminal Case No. 870 of 2015, Republic Vs J A. In that case the accused was charged as follows:-

- Count No.1 – Illegal Grazing;
- Count No.2 – Trespass upon private land;
- Count No.3 – Erecting structures upon private land.

The accused pleaded guilty and was thereby convicted on all three counts by the Resident Magistrate sitting at Nyahururu Law Courts. He was sentenced as follows

- Count No.1 – One (1) month imprisonment;
- Count No.2 – One (1) month imprisonment;
- Count No.3 – Two (2) months imprisonment.

The accused was not granted the option of a fine. It is for this reason that a revision is sought. It has later transpired that the accused is a student at [particulars withheld] Secondary School in Baringo and is due to join the second term in May 2015.

The powers of the High Court to review decisions of the lower court are to be found in **Section 362** of the **Criminal Procedure Code**. I note from the annexed proceedings that the accused pleaded guilty to all charges thereby saving the court's time. The offences were all minor (misdemeanours) and as such a fine would have been appropriate. Indeed given the short sentences given a fine would have been adequate. I therefore review the sentences imposed by the trial court as follows:-

1. Count No.1 – Fine of Kshs.1,000/- in default 30 days in prison;

2. Count No.2 – Fine of Kshs.1,000/- in default 30 days in prison;
3. Count No.3 – Fine of Kshs.2,000/- in default 2 months imprisonment.

**MAUREEN A. ODERO**

**JUDGE**

**20/4/2015**