



**Leo v ODPP (Criminal Revision E003 of 2024)  
[2024] KEHC 2935 (KLR) (13 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2935 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CRIMINAL REVISION E003 OF 2024  
PJO OTIENO, J  
MARCH 13, 2024**

**BETWEEN**

**EUGINE LEO ..... APPLICANT**

**AND**

**ODPP ..... RESPONDENT**

**RULING**

1. The Court has perused the lower court file and noted that the Applicant/Accused readily pleaded guilty to the offense and on mitigation expressed remorse for his actions.
2. The Court however notes that destruction of forest is a serious crime which must be fought and where necessary deterrent sentences imposed.
3. In the instant case the Applicant and three (3) others were convicted on own pleas of guilty on three related counts and each sentenced to serve six (6) months each of the counts. The sentences were ordered to run consecutively.
4. It is the application of the sentence the Applicant now pleads to have revised and substituted with a less severe one.
5. The jurisdiction of the Court in revision is intended to interrogate, correctness, legality or propriety of the order or sentence recorded.
6. In principle, flowing from section 14 of the *Criminal Procedure Code*, it is permissible to order that sentences run consecutively where one is convicted of two or more distinct offenses. However, where the offenses are committed at the same in a single transaction, even if the offenses are in a series, a concurrent sentence is the appropriate one to impose<sup>1</sup>.

<sup>1</sup> *Peter Mbugua Kabui v Republic* [2016] eKLR.



7. In the context of this matter the Applicant was charged with the offences of cutting a forest produce, being in possession of logging equipment and entering a closed public forest.
8. In the Court's assessment upon reading of the Charge Sheet, the offenses were in a single transaction and the proper order on sentence ought to have been that the sentences run concurrently.
9. For that reason, the Court finds that the order that the sentences run consecutively was an error which is revised.
10. The sentence against the Applicant on the three counts shall run concurrently.

**DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 13<sup>TH</sup> DAY OF MARCH, 2024**

**PATRICK J. O. OTIENO**

**JUDGE**

In the presence of:

Ms. Chala for the Prosecution

No appearance for the Applicant

Court Assistant: Polycap

