



REPUBLIC OF KENYA



**Lewa v Republic (Criminal Revision E007 of 2023)  
[2023] KEHC 4110 (KLR) (9 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 4110 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
CRIMINAL REVISION E007 OF 2023**

**GMA DULU, J**

**MAY 9, 2023**

**BETWEEN**

**SAMSON NGUTA LEWA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. Before me is a request for revision of sentence filed by the applicant on February 1, 2023 asking that Section 333(2) of the *Criminal Procedure Code* (Cap.75) be considered in the prison sentence of seven (7) years imposed on the applicant Samson Nguta Lewa.
2. I note that the applicant was tried and convicted by the Magistrate's court at Voi for dealing in wildlife trophy of an endangered species contrary to Section 82(2) of the *Wildlife Conservation and Management Act* 2013, and then sentenced to seven (7) years imprisonment.
3. Though I have not been informed whether or not the applicant filed an appeal, the record shows that he was sentenced on January 24, 2023, which is less than 6 months now.
4. The learned Prosecuting Counsel Mr. Sirima, in oral submissions, opposed the request for revision of sentence, on the ground that the applicant was found with a large number of 16 pieces of elephant tusks, and was yet sentenced to the minimum statutory sentence.
5. The applicant on his part stated orally before me that he deserved the review of the prison sentence requested, as he had been in remand custody during trial at the Magistrate's court, for one year.
6. I have considered the request for revision of sentence and perused the trial court record. Indeed, Section 333(2) of the *Criminal Procedure Code* (Cap.75) requires that the period in which a convicted person was in remand custody during trial be taken into account by the trial court in computing prison sentence.



7. From the trial court record, I note that during sentencing herein, the Magistrate noted that the applicant was in custody from February 7, 2022 close to one year and took that factor is to account among others, in sentencing him.
8. It cannot thus be said that the trial Magistrate did not take the provisions of Section 333(2) of the *Criminal Procedure Code* into account in sentencing the applicant herein.
9. There being no apparent error on the face of record, in the sentencing therefore, this court cannot exercise its limited revision powers under Section 362 of the *Criminal Procedure Code* (Cap.75).
10. The applicant's request for revision of sentence herein is therefore hereby declined and dismissed. This dismissal however does not close the door to the applicant, if he wants or chooses to appeal from the trial Magistrate's decision in accordance with the law applicable. Otherwise, the request for revision of sentence herein is hereby dismissed.

**DATED, SIGNED AND DELIVERED THIS 9<sup>TH</sup> DAY OF MAY, 2023 AT VOI IN OPEN COURT.**

**GEORGE DULU**

**JUDGE**

**In the presence of: -**

The applicant.

Mr. Sirima for State.

Mr. Otolu court assistant.

