



**Maina v Republic (Revision Case E530 of 2022)  
[2023] KEHC 20176 (KLR) (11 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20176 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
REVISION CASE E530 OF 2022  
SM MOHOCHI, J  
JULY 11, 2023**

**BETWEEN**

**PETER KIARIE MAINA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant was arraigned and charged with 2 counts of (1) entering a protected area without a permit contrary to section 102 (1) (a) as read together with section 105 of the [Wildlife Conservation and Management Act](#) 2013 on the December 21, 2021.
2. The applicant pleaded guilty to count 1, he was convicted, he mitigated and the court fined him Kshs 50,000/=, upon default to serve imprisonment of 8 months.
3. The applicant pleaded not guilty to the 2<sup>nd</sup> count of conveying of/or possession of a trap into a protected area. Applicant was admitted to bail to await trial.
4. On the May 19, 2022, the applicant changed his plea, to that of guilty in relation to the 2<sup>nd</sup> count on the charge sheet.  
Facts were provided including the exhibits recovered.  
The appellant was now convicted for both counts.
5. A pre-sentencing report was ordered for and the matter came up for sentencing on June 9, 2022 whereby the court proceeded to sentence the applicant to 2 years' imprisonment for each count, the sentences running concurrently.
6. The court finds the conviction on May 19, 2022 on an offence that the applicant had been convicted and sentenced to be in error, prejudicing the appellant.



7. The sentence thus pronounced on the June 9, 2022 was irregular and illegal and is accordingly set aside.  
This court substitutes the sentence set aside as follows: -  
The applicant is convicted and sentenced to a fine of Kshs 50,000 on each of the counts and upon default he shall serve an imprisonment of eight (8) months on count 1 and eight (8) months on count 2 both sentences shall run concurrently from December 20, 2021.
8. That unless lawfully held on another charge the applicant shall forthwith be released on account of serving his full imprisonment sentence.

It is so ordered.

**SIGNED, DATED and DELIVERED in open Court at Nakuru on  
this 11<sup>th</sup> July 2023**

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**Mohochi S.M**

**JUDGE**

**In the presence of: -**

Court Assistant – Schola

State Counsel – Ms. Mburu

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