



REPUBLIC OF KENYA



**Muema v Republic (Criminal Revision 276 of 2024)
[2024] KEHC 14047 (KLR) (12 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14047 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 276 OF 2024
DR KAVEDZA, J
NOVEMBER 12, 2024**

BETWEEN

JOSEPH MUEMA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and after a full trial convicted for the offence of dealing in wildlife trophy contrary to section 95 as read with section 105 of the *Wildlife Conservation and Management Act*, 2013. He was sentenced to pay a fine of Kshs 1,000,000 in default to serve 5 years imprisonment.
2. He has filed the present application seeking revision of sentence. The grounds raised are that he has served a substantial term of his sentence since he spent 3 years in remand custody. He is remorseful for the offence committed. He has undergone rehabilitation. He urged the court to revise the sentence of the trial court to a non-custodial sentence.
3. I have considered the application, the grounds in support and the applicable law. From the record of the trial court, the court considered the applicant's mitigation, the time spent in remand custody and the fact that the applicant was a first offender before sentencing. Having considered the application in its totality. The sentence imposed was also legal in the circumstances of the case.
4. In this case, the court considered the applicant's mitigation and sentenced him to pay a fine. As for the fines imposed for the offence, it was at the court's discretion. However, regarding the default sentence, the trial court erred in respect imposing a 5 year default sentence. The default sentence ought to have been 12 months imprisonment under section 28(2) of the *Penal Code*, Cap 63 Laws of Kenya.
5. In the premises I hereby set aside the sentence of a fine of Kshs 1,000,000 in default to serve 5 years and substitute it with the payment of a fine of Kshs 1,000,000 in default to serve 12 months imprisonment.



Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 12TH NOVEMBER 2024

D. KAVEDZA

JUDGE

