

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL APPEAL NO 106 OF 2016

LEWUAO LENTUREN.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

(Appeal from original Sentence in Nanyuki CM Criminal Case No 240 of 2015 – W Gichimu, PM)

J U D G M E N T

1. The Appellant herein, **LEWUAO LENTUREN**, was convicted in **Count II** of ***being in possession of ammunition without a firearm certificate*** contrary to **section 4(1) & (3)** of the ***Firearms Act, Cap 114***. It was alleged that on 08/03/2015 at Wakumbe area, Tura Sub-location within Laikipia North Sub-County in Laikipia County he was found in possession of five (5) rounds of 5.56 mm ammunition without a firearm certificate. He and his co-accused were acquitted in Count I of robbery with violence contrary to section 296(2) of the Penal Code. They were also acquitted of the alternative charge of handling stolen goods contrary to section 322(1) & (2) of the Penal Code.

2. On 05/05/2016 the Appellant was sentenced to serve seven (7) years imprisonment. He has appealed only against that sentence upon the grounds –

(i) That the trial court did not follow the principle of equality and uniformity in sentencing the Appellant.

(ii) That the trial court never followed the principle of proportionality when sentencing the Appellant.

(iii) That the trial court did not take into account the period the Appellant spent in custody during trial.

3. Learned counsel for the Respondent supported the sentence and pointed that it was the minimum provided for by law for the offence.

4. I have considered the submissions of each side. The trial court stated that it had considered the plea of mitigation given on behalf of the Appellant by his learned counsel. That plea included pointing out to the court the time spent in custody during trial. That was probably why the trial court felt constrained to give him the minimum sentence allowed by law instead of the maximum of fifteen (15) years or something in between.

5. I find no merit in this appeal against sentence. It is hereby dismissed. It is so ordered.

DATED AND SIGNED AT NANYUKI THIS 18TH DAY OF AUGUST 2021

H P G WAWERU

JUDGE

DELIVERED AT NANYUKI THIS 7TH DAY OF OCTOBER 2021