

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL REVISION NO.117 OF 2020

(From Original Conviction and Sentence in Nanyuki Criminal Case No.415 of 2020)

BERNARD MIANO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

14/07/2020

Coram: Before Waweru, J

(In chambers)

ORDER IN REVISION

1. Upon application by the convict herein **BERNARD MIANO**, I have called for and examined the record of the trial court in respect to the sentence meted out.
2. The convict was convicted upon his own plea of **making charcoal in a state forest S/C 67(1)(e) of the Forest Conservation and Management Act, No.34 of 2016**. On 11/05/2020 he was sentenced to a fine of Kshs.50,000/00 and in default of payment to serve 12 months imprisonment. He did not pay the fine and is serving the default sentence.
3. The default sentence is clearly unlawful. A fine not exceeding Kshs.50,000/00 should not attract a default sentence that exceeds six (6) months imprisonment. See Section 28(2) of the Penal Code.
4. In the circumstances I must set aside the default sentence, which I hereby do. Further, with a view to decongesting prisons during the current Coronavirus (COVID-19) crisis, I will substitute a default sentence of four (4) months imprisonment. To that limited extent only is the sentence interfered with. It is so ordered.

GIVEN under my hand and seal of this Honourable Court this 14th day of July 2020

H.P.G. WAWERU

JUDGE.

ISSUED AT NANYUKI THIS 14TH DAY OF JULY 2020.

DEPUTY REGISTRAR

NANYUKI HIGH COURT