

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISC. CR. APPLICATION NO. 241 OF 2017

JOSEPH NYAGA WAMBUGU.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The Applicant seeks a revision of the sentence meted out in Kibera Cr. Case No. 137 of 2014. He was charged with the offence of being in possession of Wildlife Trophy contrary to Section 95 of the Wildlife conservation and Management Act, 2013. It was alleged that on the 31st day of March, 2014 at around 13.30 hrs at Hillocks Area at Kobil Petrol Station within Nairobi county, was found in possession of wildlife trophy namely, one (1) piece of raw elephant tusk weighing 2 kg with a street value of kshs. 200,000/=. He was sentence to serve five years imprisonment.

2. I have considered that he was a first offender. Although the trade in elephant tusks then was prevalent, imposition of the maximum sentence under the law was harsh and excessive.

3. All the same, even as the Applicant insists on proceeding with the revision, he is clearly not remorseful. He thus deserves a custodial sentence any way.

4. Accordingly, I set aside the five years jail term and substitute it with an order that the Applicant shall serve three years imprisonment.

DATED and DELIVERED this 16th day of **December, 2019**

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

1. *Applicant present in person*
2. *M/s Chege for the Respondent.*