

IN THE HIGH COURT OF KENYA

AT NAKURU

REVISION NO. 12 OF 2014

REPUBLIC.....APPLICANT

VERSUS

MICHAEL MUGAMBI NDEGWA.....RESPONDENT

REVISION ORDER

This file was placed before me for purposes of revision. The accused person was charged with two offences:- count I - being in possession of Government Trophy contrary to **Section 42(1)(b)** as read with **Section 52(1)** of the **Wildlife (Conservation and Management) Act Cap 376 Laws of Kenya**; count II – failing to make a report of possession of Government Trophy contrary to **Section 39(3)(a)** of the **Wildlife (Conservation and Management) Act Cap 376 Laws of Kenya**.

The prescribed punishment is Kshs.10,000/- or imprisonment for 2 years or both the fine and jail term. On count II, the sentence is also Kshs.10,000/- or imprisonment for 12 months. The trial court sentenced the accused to 15 months probation. The above provisions did not provide for a minimum sentence. It means that the magistrate had a discretion in passing sentence. If the prosecution is dissatisfied with the sentence it can appeal otherwise this court does not have sufficient ground upon which to review the sentence which was an exercise of discretion.

R.P.V. WENDOH

JUDGE

11/6/2014