

REPUBLIC OF KENYA

High Court at Kitale

Criminal Appeal 106 of 2001

DAVID EBENYO LOTIANG ::: APPELLANT.

VERSUS

REPUBLIC ::: RESPONDENT.

(Being an appeal from the original conviction and sentence of H.O. Barasa – SRM. in Criminal Case No. 495/2011 delivered on 17th April, 2012 at Lodwar.)

6/5/2013.

Court:- With regard to an appeal on sentence, the court may interfere only if the sentence was harsh and or excessive or if it was unlawful.

Herein, the sentence of eight (8) years imprisonment was lawful. However, it was rather excessive and harsh for a first offender considering that section 56 (1) (a) of the Wildlife Conservation & Management Act (Cap, 376 LOK) provides for a sentence of a fine of Ksh. 40,000/= and/or imprisonment for a maximum term of ten (10) years.

Consequently, the appeals by both appellants are allowed to the extent that the sentence is reduced to a fine of Ksh. 40,000/= in default to serve two (2) years imprisonment from the date of conviction by the trial court on 19th July, 2011.

Ordered accordingly.

J.R. KARANJA.

JUDGE.