



**Republic v David & another (Criminal Case E073 of 2025)
[2025] KEMC 84 (KLR) (7 May 2025) (Sentence)**

Neutral citation: [2025] KEMC 84 (KLR)

**REPUBLIC OF KENYA
IN THE JKIA LAW COURTS
CRIMINAL CASE E073 OF 2025
AN THUKU, SPM
MAY 7, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

LORNOY DAVID 1ST ACCUSED

SEPPE LODWIJCKX 2ND ACCUSED

SENTENCE

Introduction

1. Messor Cepholates. 2244 tubes. Giant African Harvester Ants. Formicarium. Illegal Wildlife Trade (IWT). These are all terms that are now commonly associated in this matter. It is not lost on this court that this case has generated a lot of interest both locally and internationally.
2. Lornoy David (“Lornoy”) and Seppe Lodewijckx (“Seppe”) are the accused persons. They are charged with dealing in wildlife species contrary to section 95(c) of the [Wildlife Conservation and Management Act](#), Laws of Kenya.
3. The particulars of the offence are that on April 5, 2025 at around 1000 hours at Jane Guest House, Lake View area [in] Naivasha within Nakuru were found dealing in live wildlife species namely garden ants approximately 5,000 queens packed in 2244 tubes which have a street value of Kshs 1 million without a permit.
4. Lornoy and Seppe were arraigned in court to take plea on April 14, 2025. They both pleaded guilty. They have at all times been represented by Ms. Halima. The prosecution led by Mr. Mulama informed the court they were not ready with the facts. This was deferred to the following day, April 15, 2025.
5. When the facts were presented, Lornoy and Seppe confirmed they were correct. Mr. Mulama informed the court that they were first offenders and then Ms. Halima mitigated on their behalf. The court



requested the Probation Office to prepare Pre-Sentence Reports. These were presented in court on April 23, 2025 after which the court set today's date for Sentencing. Additionally, the complainant Kenya Wildlife Service (KWS) filed a Victim Impact Statement for consideration by the court. It is not unusual for the courts to receive Victim Impact Statements but these are normally prepared by the Probation Office. KWS being a state organ took the unique step in presenting its own Victim Impact Statement to add its voice owing as mentioned above, to the public interest generated by this case. The court accepted this report and indeed the reports were shared with Ms. Halima, defence counsel.

6. What follows next is a consideration of these two reports as well as nuanced and germane factors that have a bearing on this case. At this sentencing stage, the court is not bound by the strictures of the requirements in writing a judgment. This means it can draw on information relevant to the case in reaching a decision on sentencing.

Law

7. Section 95(c) of the *Wildlife Management and Conservation Act* states:

95. Offences relating to trophies and trophy dealing

Any person who, without a permit or exemption granted under this *Act* in relation to a species not specified under section 92—

- a. kills or injures, tortures or molests, or attempts to kill or injure, any wildlife species;
- b. deals in a wildlife trophy;
- c. deals in a live wildlife species;
- d. is in possession of a wildlife trophy or live wildlife species; or
- e. manufactures an item from a wildlife trophy, commits an offence and shall be liable on conviction to a fine of not less than one million shillings or a term of imprisonment of not less than twelve months or to both such fine and imprisonment.

Mitigation

8. Mr. Mulama informed the court that there were no previous criminal records for Lornoy and Seppe. He did point out that preliminary investigations into the Lornoy's phone revealed that he was a member of a group known as "Ant Gang". He insisted that the court receives a report from KWS and hence, the Victim Impact Statement.
9. Ms. Halima presented mitigation for Lornoy and David jointly. She explained that they take full responsibility for their actions. This is borne out by a letter dated April 17, 2024 from Scouts Sint-Pieter Mol, a scout group where Lornoy and David are members. The letter was submitted together with the Pre-Sentence Report. She stated that they are young and have the rest of their lives ahead of them. Ms. Halima further stated they have reflected on their behaviour since their arrest on April 5, 2025. Additionally, the case has taken a toll on their families as well, with both mothers travelling from Belgium. Ms. Halima told the court that Lornoy and Seppe collected the insects as a hobby and acted out of naivety. There is also a letter from Lornoy's grandfather sent to the Probation Office which was also shared with the court.
10. Lornoy added to the mitigation. He explained that he did not come to Kenya to break any laws and that their actions were borne out of stupidity. He said they were naïve. Lornoy said he would like to go home to start his life.



11. Seppe explained that the whole ordeal of being arrested and being in court had been hard for them and their families.

Pre-Sentence Reports

12. I have read the Pre-Sentence Reports and I thank the respective Probation Officers that prepared them. The reports can be summarized as follows. Lornoy is the first-born son of a single mother who is a civil servant in Belgium. He recently finished high school and has ambitions of studying tourism. Lornoy's grandfather described him as a person with a good heart. Lornoy came to Kenya for a gap year before going onto to higher education. According to the report, Lornoy has ten colonies of ants at home in Belgium. He is an ant enthusiast and belongs to a Facebook group called "Ants and Ant Keeping". Lornoy visited Kenya for the first time five years ago. Lornoy learned more about the season for collecting queen ants from two Kenyans, one of whom has an ongoing case relating to transporting ants. In order not make the case subjudice, the person shall not be named in this sentencing because, he remains innocent until proved guilty. Lornoy said he bought 2,500 queens for USD 200. These were already packed but he went to pack some more ants until the day he and Seppe were arrested. Lornoy is extremely remorseful about this offence. He deeply regrets his actions. He did not know his actions were illegal and he prays for a lenient sentence. The Probation Officer recommends a lenient sentence and possibly a fine.
13. Seppe lives with his mother and has one sibling. She works as a care giver. It was her suggestion that Seppe travel the world to improve his mental health. She was certain that he committed the offence out of ignorance. She wants the court to give him a fine so that he can go back home to Belgium and go to university. The case has affected her mentally, emotionally and financially. His father stated that Seppe has learned his lesson and he asked the court to consider his age. Seppe is enrolled in a diploma program to study Economics combined with French, German and English as languages. Seppe said he came to Kenya to watch the Safari Rally and this is his first visit. He and Lornoy travelled from Jomo Kenyatta International Airport to Naivasha using public transport, when they arrived on March 20, 2025. Seppe has an interest in entomology and through this he was able to connect with a local community in Naivasha and Gilgil. They showed him different species of insects and he offered to buy them but his intention was not to traffic them. Seppe is remorseful about the fact that he is in court for this offence. He also makes reference to one of the Kenyans in Lornoy's report who lives in Ukunda. He prays for leniency and states that he is a first offender. Seppe wants to go home and continue with his life. Based on phone interviews, Seppe has strong community ties and according to his friends, he has a good character.

Victim Impact Statement

14. I have read the Victim Impact Statement prepared by an officer from KWS. It refers to increasing seizures of insects from 2019 without giving the data. How many seizures have occurred each year? What was the destination? What creature was being transported? Were there any prosecutions? Has KWS secured convictions? Are there efforts to sensitize the communities living where these creatures come from? The statement states the seizures involve garden ants and praying mantis.
15. The statement also makes reference to the fact that the live species in this case were packed in a way to ensure their survival for the next two months. In summary, the attraction to the ants in this case whose scientific name is messor cephalotes, is that they are:
 - a. kept as exotic pets.



- b. highly prized for their unique behaviour which according to the pet owners, is therapeutic to watch.
- c. used for research and educational purposes.
- d. a source of research due to their foraging strategies and social structure.
- e. useful in teaching ecology the behaviour of ants and the importance of ants in the ecosystem,
- f. provide helpful insights into biodiversity and the ecosystem.

The statement concludes that the specific use of messor cephalates is not well documented. According to the statement an ant retails for between 60 to 100 euro. An ant colony can have up to 10,000 ants and in households they are kept in a formicarium.

- 16. Attached to the Victim Impact Statement is the report from the National Museums of Kenya dated April 22, 2025 by L. Njoroge an Entomologist and Research Scientist in the Invertebrates Zoology Section of the National Museums of Kenya.
- 17. In terms of the negative effects of mass harvesting and transfer of ants, these include:
 - a. The extinction of the local species. The report from the National Museums of Kenya states that it is possible for Messor cephalates and *M. angularis* to become extinct because they have “a very restricted distribution range” and are only known in East Africa.
 - b. A proliferation of “harmful species such as crop pests due to a lack of predation.”
 - c. A disruption in “the process of nutrient recycling and potentially affecting nutrient availability for plants.” This leads to nutrient poor soils and poorly aerated soils.
 - d. The introduction of invasive species in areas where they are not naturally found.

The Role of queen ants and the effects on the eco-system of genocidal harvesting

- 18. The charge sheet states that it was only queen ants in the 2244 test tubes. This begs the question - Why harvest only the queen? What role does she play? The role of the queen ant is explained in a paper titled, “*Adaptability and Strategy of Ant Society: Analysis of Cooperation and Defence Behaviour*” presented at the Bio Web Conferences 2024 and authored by Yijia Ji.¹ The author writes:

The queen ant is the core of the colony, commonly the only fertile female, and the heart of the superorganism, the mother of the entire ant society. The reproductive right of the queen ant is the supreme right in ant society. The development of the queen ant begins with special ant eggs, hatching larvae that receive a richer supply of nutrients and hormones, and eventually develop into a queen ant with reproductive organs and reproductive functions. Every year, a group of winged breeding ants are cultured in the nest. They leave the nest at a specific time to find male or female ants in different nests for mating. This process is called wedding flight. In general, the marriage flight time of ants of the same species in the same area is the same, ensuring that breeding ants of the same species from different nests can meet. The mating site of ants is generally fixed, the males first gather in the air, then the females come, and this mating cluster site may be used by ants for numerous years...Female ants generally mate with multiple males to ensure the genetic diversity of their offspring. After the wedding flight, the female ants will fall to the ground, remove their wings, and

¹ Available at https://www.bio-conferences.org/articles/bioconf/pdf/2024/30/bioconf_icbb2024_03006.pdf



find a suitable place to nest, lay eggs, and feed the larvae. This process is full of crisis and the success rate is extremely low, but the surviving queen will start a different round of ant life.

19. Though not clear stated in the Victim Impact Statement, this explains how it was possible to collect so many queen ants at the same time. Lornoy in the pre-sentence report referred to the wedding flight as “swarming”. Once the queen is fertilized she starts to lay eggs immediately and hence why Lornoy and Seppe capitalized on this season in Naivasha. As the report from the National Museums of Kenya stated, messor cephalotes are found in a particular area.
20. Ms. Halima their advocate in mitigation informed the court that Lornoy and Seppe were only engaged in a hobby. It would have been classified as a hobby to collect perhaps two or three queen ants. Or even as between them ten queen ants (five each) as an insurance for them in case some of the ants died. But there is no justification for being found with 5,000 queen ants. None at all. This is beyond a hobby. Indeed, there is a biting shortage of messor cephalotes online; and if sold at an average price as posted online of €169.90 then the value of the 5,000 queen ants is in excess of €800,000 or \$900,000.
21. Indeed if it happened to any larger species with 5,000 of a specific gender being taken away, it would be genocidal proportions. In the words of the report from the National Museums of Kenya, this would have led to the species being extinct. But what drives this demand?

Illegal Wildlife Trade and the change in wildlife trafficking trends - what drives the demand?

22. Illegal wildlife trade of invertebrates is on the rise. It is also one of the largest underground markets earning between £5.2 and £6.6 billion, only second after drugs according to a write up by Nabieva E.S. and Miftakhova E.I. from Tyumen State University². There are many examples of illegal wildlife trade. For instance, in February 2025, US Customs and Border Protection officials at Los Angeles International Airport (LAX), seized a consignment of 37 live beetles hidden in packages of Japanese snacks, chocolates and potato chips³. The shipment was sent from Japan by air cargo. On November 8, 2024 a 28-year-old man from South Korea was caught in at Jorge Chávez International Airport in Lima, Peru while trying to leave with 320 tarantulas, 110 centipedes and nine bullet ants strapped to his body⁴. In 2009, Lee Arden, a 26-year-old man was arrested in Rio de Janeiro for trying to smuggle 900 tarantulas that were in his suitcase. He was on his way back to London and said he bought the spiders for £3 each with the aim of selling them for £30 each.
23. A casual search on the internet will reveal that the online stores selling Messor Cephalotes have run out of stock. Due to the shortage, the price has gone up with the lowest being sold for £99.99 for a single queen on antsrus.com (see <https://www.antsrus.com/product-page/messor-cephalotes-giant-african-harvester-ants>) , antseurope.eu (see <https://www.antseurope.eu/gb/ants-for-sale/245-zrnojed-velkohlavy-messor-cephalotes.html>) and [qualityants](https://qualityants.nl/en/product-category/ants/messor-cephalotes/) (see <https://qualityants.nl/en/product-category/ants/messor-cephalotes/>) . The reasons for their demand are stated elsewhere in these remarks under the title “Victim Impact Statement.”
24. It is tempting to try and apply the same reasoning on the causes of poaching of big game such as the elephant, rhino and cheetah, to the messor cephalotes or small invertebrate. However, the

² See “Smuggling of Exotic Animals” available at <https://studconf.com/download/461/>

³ See “37 live beetles concealed as Japanese snacks seized at LAX” available at <https://ktla.com/news/localnews/37-live-beetles-disguised-as-japanese-snacks-were-seized-at-lax/>

⁴ See “Smuggler arrested with 300 tarantulas strapped to his body” available at <https://edition.cnn.com/2024/11/20/americas/smuggler-tarantulas-peru-intl-scli/index.html> and “Smuggler caught with hundreds of tarantulas strapped to his body” available at <https://www.bbc.com/news/videos/cde7x4wkwnpo>



reasons do not apply. The hunting of elephant tusks is executed by sophisticated and seasoned poachers. They have developed stealth and skill in targeting their animals. It is normally a long chain from the poacher on the ground all the way to the end user, ² See “Smuggling of Exotic Animals” available at <https://studconf.com/download/461/>³ See “37 live beetles concealed as Japanese snacks seized at LAX” available at <https://ktla.com/news/local-news/37-live-beetles-disguised-as-japanese-snacks-were-seized-at-lax/>⁴ See “Smuggler arrested with 300 tarantulas strapped to his body” available at <https://edition.cnn.com/2024/11/20/americas/smuggler-tarantulas-peru-intl-scli/index.html> and “Smuggler caught with hundreds of tarantulas strapped to his body” available at <https://www.bbc.com/news/videos/cde7x4wkwnpo> normally on a different continent. Most countries now recognize that it is illegal to deal in elephant tusks. Additionally, there is general awareness on the need to preserve elephants and other endangered species for the generations to come.

25. This reasoning does not apply to messor cephalotes. Lornoy and Seppe do not come across as typical poachers. By their own admission they were ignorant that they were breaking the law. The level of sophistication in moving the insects as described by the KWS is through the post in concealed packages. As evidenced by the fact that they are on sale on different continents, there seem to be no ethical or moral questions raised about how they are sold or the process used to get them to their destination – in test tubes. It is simply just business; there is demand and supply. Those like Lornoy and Seppe who are able to capitalize on getting the ants make the money.
26. Thus, there must be a new approach to addressing the issue of illegal wildlife trade that requires a multi-pronged approach with different stakeholders. It cannot simply be about law enforcement. That is only part. It is time to involve the scientists, educators, ant enthusiasts, environmentalists and those passionate about wildlife and conservation, indeed the list is endless. But most importantly it is about gathering those interested in passing on to the next generation, the best of what nature has to give. This includes as the hymn writer wrote, “All things bright and beautiful, all creatures great and small. All things wise and wonderful, the Lord God made them all.”
27. Kenya and indeed Africa, is endowed with rich natural resources most of which are not seen as valuable. It is no stretch of imagination that in some households especially in sub-Saharan Africa, it is surprising for many on the Continent to note that ants can command such attention and value. Yet they form part of every day life especially for those who live in the countryside.
28. But this script has been played out before in centuries gone by. The script of Africa having resources that are plundered by the West and now the East. It is an uncomfortable subject and to some far-fetched to raise in a court of law, but it is a reality. Lornoy and Seppe and those who are willing to pay the market rate for a single queen of the Messor Cephalotes specie have seen and understand the value of what is, a natural resource to Kenya.
29. But is there a business case to be made? Is it possible to harness the entrepreneurial zeitgeist of Kenyans by providing a framework for those interested in handling different types of invertebrates? Can the National Museums of Kenya or Kenya Wildlife Service have a section for formicaria and have displays of invertebrate that are unique to Kenya and East Africa? I ask these questions not to provide any answers but to generate debate and discussion around the issue of making a business case. Is it possible to set out guidelines on the exportation of not just Messor Cephalotes because it is evident there is a ready online market? Could it be the answer lie in the [*Nagoya Protocol*](#)?
30. The [*Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization \(ABS\) to the Convention on Biological Diversity*](#) (“Nagoya Protocol”) seeks to address these concerns. Kenya is a signatory to both the [*Convention on Biological Diversity*](#) and the [*Nagoya Protocol*](#). The [*protocol*](#) was adopted in Nagoya, Japan and has as one of its three main objectives:



the fair and equitable sharing of benefits arising out of the utilization of genetic resources.⁵ More recently earlier this year in what may be seen as a step towards actualizing the [Nagoya Protocol](#), there was in the Special Issue of the Kenya Gazette Legal Notice 19 the publication of regulations referred to as the *Environmental Management and Coordination (Access to Biological Resources and Benefit Sharing) Regulations, 2025*.

Gaps in the protection of Messor Cephalotes in WCMA and CITES

31. Where do we go from here? Now that it is known that Messor Cephalotes have such high demand and they are available in Kenya. One of the aspects that the Victim Impact Statement is silent about, is the fact that Messor Cephalotes are not captured in the [Wildlife Conservation and Management Act](#). They are not listed in the Sixth Schedule as an endangered, vulnerable, nearly⁵ See <https://www.cbd.int/abs/about> threatened or protected species. It would be good to see some research and published papers and policy guidelines around the protection of Messor Cephalotes and other insects under threat in Kenya. Messor Cephalotes is also not listed in any of the Appendices in the [Convention on International Trade in Endangered Species of Wild Fauna and Flora](#) (CITES).

Sentencing Guidelines, 2023

32. Moving now to the sentencing, the [Sentencing Guidelines, 2023](#) have provisions to cover people like Lornoy and Seppe who plead guilty at the earliest possible stage. In paragraph 4.3.1 and 4.3.9 the Guidelines provides:

Accused Persons Pleading Guilty

4.3.1 Although a guilty person is entitled not to admit the offence and to put the prosecution to proof of its case, an acceptance of guilt, reflected in a guilty plea

- i. normally reduces the impact of the crime upon the victims;
- ii. saves victims and witnesses from having to testify; and
- iii. is in the public interest in that it saves public time and money on investigations and trial.

4.3.9 In the case of a mandatory minimum sentence, the discount cannot go below that minimum term set by statute.

33. The principle in this section is that the court is called upon to take into account, the benefits that accrue to the court when an accused person pleads guilty. However, where a mandatory minimum sentence is provided for, the court cannot go below what it stipulated in statute.
34. Paragraph 2.7 of the [Sentencing Guidelines, 2023](#) addresses Fines. The wording of statute is for a mandatory minimum sentence. Paragraph 2.7.2 gives the following rationale,

“In some cases, minimum fines are prescribed but, in most cases, the relevant provisions provide the maximum amount payable in fines, leaving the court to determine the level of fine that is appropriate.”

35. There is further direction given in paragraph 2.7.5 which states,

Where the option of a fine is provided in the law, the court must first consider it before proceeding to impose a custodial sentence. If in the circumstances a fine is not a suitable



sentence, then the court should expressly indicate the reasons why it is not appropriate to impose a fine.”

36. There is a persuasive authority from the Supreme Court of Canada in *R v. Nasogaluak* - 2010 SCC 6 [2010] 1 SCR 206. One of the limbs on appeal was whether it is possible to issue a sentence lower than the mandatory minimum sentence. The court pronounced itself on this at paragraph para_45 where the judges said:

...Parliament has also seen fit to reduce the scope of available sanctions for certain offences through the enactment of mandatory minimum sentences. A relatively new phenomenon in Canadian law, the minimum sentence is a forceful expression of governmental policy in the area of criminal law. Certain minimum sentences have been successfully challenged under s. 12 of the Charter on the basis that they constituted grossly disproportionate punishment in the circumstances of the case (*R. v. Smith*, [1987] 1 S.C.R. 1045; *R. v. Bill* (1998), 13 C.R. (5th) 125 (B.C.S.C.)), while others have been upheld (*R. v. Morrissey*, 2000 SCC 39, [2000] 2 S.C.R. 90). Absent a declaration of unconstitutionality, minimum sentences must be ordered where so provided in the Code. A judge’s discretion does not extend so far as to override this clear statement of legislative intent.

37. There are also provisions on what to in wildlife crimes, but these were designed with big game in mind. It is time to consider setting guidelines in cases involving wildlife species like Messor Cepholates which are unique to Kenya. Additionally, the penalty provided for in the offence that Lornoy and Seppe face under section 95(c) of the *Wildlife Conservation and Management Act* is woefully deficient, as compared with that for endangered species in section 92 or section 99 of the same act which attract heavy and severe penalties that can act as a serious deterrent.
38. In the meantime, this court will continue to do its best to protect the wildlife in Kenya. This is accurately stated in verse two of the national anthem, “Amkeni ndugu zetu tufanye sote bidi nasi tujitoe kwa nguvu. Nchi yetu ya Kenya tunayoipenda tuwe tayari kuilinda.” (Let all and one arise with hearts both strong and true. Service be our earnest endeavour and our homeland of Kenya heritage of splendour, firm may we stand to defend.)
39. The recommendation in the Victim Impact Statement is for a harsher sentence towards Lornoy and Seppe. Those who demand such measures, never imagine that one day, they will be need of mercy themselves. In any event, I have considered all that is written in these Sentencing Remarks, which is also why it was necessary to give thought to the sentencing instead of sentencing on the spot. But there is always to be room for redemption; it is worth extending grace to those who slip and fall in life. They deserve another chance in life to do better and to be better.
40. I find that Lornoy and Seppe pleaded guilty on the day of plea. They have accrued benefits to the court and particular, saving judicial time which is a scarce resource in the Judiciary.
41. Section 95 (c) of the *Wildlife Conservation and Management Act* has a mandatory minimum fine for this offence. Lornoy and Seppe have shown remorse and plead with the court for the chance to put this case behind them and move on with their lives.

Sentencing

42. In conclusion, Lornoy and Seppe are sentenced to pay a fine of Kshs 1 million (One Million) each in default they will serve 12 months in prison each.
43. They have 14 days right of appeal.



Return of the Exhibits

- 44. Upon payment of the fine or completion of the prison term whichever comes first, and if there is no appeal lodged within 14 days the personal items produced in the Exhibit 1B belonging to Lornoy and the personal items produced in Exhibit 1C belonging to Seppe be returned to each of them respectively by the investigating officer.
- 45. However, the investigating officer is to make photocopies of both passports of ALL pages and these are to be presented in court at the date set by the court.

Destruction of Exhibits

- 46. If there is no appeal lodged within 14 days, the items produced in Exhibit 1A are to be released to the National Museums of Kenya for them to do as they deem fit within their mandate and according to their protocol and procedure.

Repatriation

- 47. Upon payment of the fine or completion of the prison term Lornoy and Seppe are to be repatriated through the Immigration Department back to their country of origin.
- 48. Mention to confirm repatriation if they opted to pay the fine. Mention on June 5, 2025.

DATED, SIGNED AND DELIVERED AT JKIA LAW COURTS THIS DAY OF MAY 2025.

NJERI THUKU

SENIOR PRINCIPAL MAGISTRATE

JKIA LAW COURTS

MAY 7TH, 2025

In the presence of: -

.Court Assistant

..... State Counsel

..... Defence Counsel

..... 1st Accused

..... 2nd Accused

..... Language

