



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KABARNET

HCR REV NO. E043 OF 2025

MOSES TAMAR BULDOZA..... APPLICANT

VERSUS

REPUBLIC..... RESPONDENT

RULING

1. The applicant **MOSES TAMAR BULDOZA** jointly with two others were charged with two counts of offence of dealing in a wildlife Trophy of a specified endangered species without a permit or other lawful exemption contrary to section 92(2) of the wildlife conservation and management act 2013. Particulars are that on the 25th day of June 2023 at around 1740hrs at Eldume village Ilchamus location in Baringo south subcounty within Baringo county, the accused jointly with others not before court were found dealing in wildlife trophy namely 12 elephant tasks, that being a trophy of a species that is endangered under schedule e six and at the time of doing so did not have a permit or other lawful exemption granted under this Act.

2. The second charge was being in possession of the 12 elephant tusks as captured above contrary to section 92(4) of the wildlife conservation and management act 2013.
3. Upon conviction, the applicant herein was fined Kshs 3 million in default 5 years imprisonment while his co-accused persons were sentenced to 7 years imprisonment without option of a fine.
4. When the matter came up for hearing on 23rd July 2025, the prosecution counsel opposed revision of sentence on ground that the applicant has served only 2 months imprisonment. She submitted that the applicant has started tailoring course and revising the sentence will not be deterrent.
5. The applicant submitted that he has children in secondary school who are relying on him and prayed for a non-custodial sentence. The court called for social inquiry report which was filed.

SOCIAL INQUIRY REPORT

6. From the report, the applicant has formal education up to class 3 and after dropping out of school, he engaged in casual labor, then farming and eventually purchased a motorcycle and engaged in boda boda business. At the time of his arrest, he was engaging in tomato, maize farming and

boda boda business. He is married with 6 children. The wife says the family is suffering in the absence of the applicant.

7. Prison authorities say the applicant has been in prison for 2 months 3 weeks and that he has joined prison industry to gain a skill in carpentry. They describe him as of good behavior.
8. The applicant says he was duped into transporting wildlife trophy. He prays to be allowed to serve non-custodial sentence as his children dropped out of school after his arrest as he is the sole bread winner.
9. The area chief stated that the applicant was of good conduct prior to his arrest and he is known in the community as prolific farmer who farms maize for self and Kenya seed company and also plants water melon. He said the community were surprised at his arrest as he is a hard-working person and may have been driven by desire for quick money. He confirmed that since his arrest, the family has faced hardships seen from children being sent home from school for school fees.
10. The accused prays for non-custodial sentence or reduction of sentence.

ANALYSIS AND DETERMINATION

13. This application invokes the Court's revisionary powers of the High court under Sections 362 and 364 of the Criminal Procedure Code, which empower the Court to review sentences that are illegal, improper, or founded on error.
14. Sentencing serves multiple objectives, including retribution, deterrence, rehabilitation, restorative justice, community protection, and denunciation as provided by Judiciary Sentencing Policy Guidelines, 2023.
15. From the report the applicant was a very hard-working farmer and boda boda operator in the community. He admits the offence but explains that he was duped into transporting the trophies. There is no doubt that the applicant knew that it is an offence to deal in elephant tasks. It is open knowledge that elephants are endangered species in Kenya and dealing in elephant tasks is an offence which every Kenyan citizen is expected to know. He therefore knew he was committing a serious offence participating in reducing the already endangered wildlife species. He may have been driven by desire for quick money as said by the area chief. Record show the sentence imposed is the minimum sentence provided by statute. Minimum sentences were introduced in statute so as to protect endangered species. The applicant has served only 2 months in prison. In my view, revising the sentence will go against the legislature's intention in introducing minimum sentences in the Act. The intention is

to deter other would be offenders from dealing with wild life trophy of endangered species. Revising the sentence will therefore go against the intention and spirit of the Act. From the foregoing

16. **FINAL ORDERS: -**

Application for revision of sentence is declined.

Ruling delivered, dated and signed Virtually at Kabarnet this
29th Day of October, 2025.



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RACHEL NGETICH
JUDGE

In the presence of:

- Ms. Bartilol for State.
- Applicant present.
- CA, Elvis/Momanyi.