



REPUBLIC OF KENYA



**Kurgat v Republic (Criminal Revision E062 of 2025)
[2025] KEHC 17403 (KLR) (26 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17403 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL REVISION E062 OF 2025
RB NGETICH, J
NOVEMBER 26, 2025**

BETWEEN

JAMES AIYABEI KURGAT APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant James Aiyabei Kurgat was charged with the offence of being in possession of wildlife species contrary to section 95(d) of the *akn ke act 2013 47 wildlife Conservation and Management Act* No.47 of 2013. Particulars are that on the 31st August 2025 at around 1700hrs at Tenges area in Baringo central subcounty within Baringo county, the accused was found in possession of live wildlife species namely Fourteen (14) tortoises without a permit from Director General Kenya wildlife service or other lawful exemption granted under the Act.
2. The applicant admitted the charge and upon conviction, he was sentenced to 5 years imprisonment.
3. When the matter came up for hearing on 17th November, the applicant said he was remaining with 3 years to complete sentence. The prosecution counsel opposed the application saying the applicant has only served 2 months. Out of 5 years and that the offence is serious deserving deterrent sentence.

Social Inquiry Report

4. From the report, the applicant regrets to the actions that led to his imprisonment. He prays for review of his sentence to non-custodial on ground that his family rely on him.
5. Th local administration stated that the applicant was of good conduct prior to his arrest but consumed alcohol. He say she relates well with the community and they are ready to welcome him back. He is not also opposed to review of sentence.



Analysis And Determination

8. 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.
9. Sentencing serves multiple objectives, including retribution, deterrence, rehabilitation, restorative justice, community protection, and denunciation as provided by Judiciary Sentencing Policy Guidelines, 2023.
10. From the report the applicant was of good conduct prior the incident herein. The community are willing to receive him back. I however, note that the offence committed his serious. The applicant was found with 13 tortoises without any authority. The number of the wildlife species in his possession in my view must have been criminal scheme which in my view should be dealt with firmly to protect endangered wildlife species. The accused had only served 2 months of the 5 years sentence. Reviewing the sentence at this stage in my view will not serve to deter others from committing similar offence. From the forgoing, I decline to review sentence but the applicant may renew his application at a later date. This will also give him opportunity to complete the courses he is undertaking in prison.
11. Final Orders: -
 - a. Application for revision of sentence is declined.
 - b. Applicant may renew his application at a later stage

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 26TH DAY OF NOVEMBER , 2025.

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RACHEL NGETICH
JUDGE

In the presence of :

Ms. Bartilol for State.

Applicant - present.

Court Assistants - Elvis Momanyi.

