

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAKURU**  
**CRIMINAL REVISION NO. E020 OF 2025**

**PAUL MWANGI WANJIKU.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

*(From Judgement in Nakuru Chief Magistrate Court Criminal case No. E069 of 2025)*

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**PAUL MWANGI WANJIKU .....ACCUSED**

**RULING**

1. This revision emanates from the Judgement of the Hon. A.P Ndege(SPM) in Nakuru Chief Magistrate Court Criminal Case No. E069 of 2025; Republic Versus Paul Mwangi Wanjiku.
2. In the aforementioned case, the Applicant herein was charged with two counts.
3. On **Count I**, he was charged with the offence of entering into a protected area without a permit or any other lawful exemption contrary to section 102(1)(a) as read with section 102(1)(h) of the Wildlife Conservation and Management Act.
4. The particulars of the offense is that on 8<sup>th</sup> January, 2025 at around 1100hrs, at Vietnam area in Lake Nakuru National Park, Nakuru West Sub-County within Nakuru County, at GPS Coordinates 37M 0173946 UTM 9963753, with others not before Court, he was found to have entered into a protected area on foot without a permit from the Director General Kenya wildlife services.

5. On **Count II**, he was charged with the offence of undertaking extractive activity in a wildlife protected area without a permit or any other lawful Exemption contrary to section 102 (1) (g) as read with section 102(1)(h) of the Wildlife Conservation and Management Act.
6. The particulars of this offense are that on 8<sup>th</sup> January, 2025 at around 1100hrs, at Vietnam area in Lake Nakuru National Park, Nakuru West sub County within Nakuru County, at GPS Coordinates 37M 0173946 UTM 9963753, with others not before Court, he was found jointly undertaking extractive activities namely fishing and in possession of Four(4) fishing nets, one(1) sack and sixteen(16) pieces of fresh fish with a street value of Kshs. 800/- without a permit from the Director General, Kenya Wildlife Service.
7. Upon pleading guilty to the charges, he was sentenced to pay a fine of Kshs. 200, 000/- on each of the two Counts and in default to serve two years imprisonment, which shall run consecutively.
8. Dissatisfied with that decision, the Applicant lodged this Revision dated 20<sup>th</sup> February, 2025, seeking that his sentence be reduced on the basis that he was remorseful and that he was a first-time offender. Further that the Court did not take into account these circumstances and instead meted out a harsh sentence without any justification.

### **Respondent's Submissions**

9. In their submissions, the Respondent submitted that this criminal revision lacks merit and ought to be dismissed, noting that the Applicant was charged in Criminal Case E069 of 2025 with two counts: entering a protected area without a permit and undertaking extractive activity in a wildlife protected area, both contrary to the Wildlife Conservation and Management Act. Having pleaded guilty to both counts, the Applicant was sentenced by the trial court to a fine of Kshs. 200,000 or, in default, two years of imprisonment for each count, with the sentences to run consecutively.

10. The Respondent contends that the sentences meted out are strictly legal and proper, as they represent the mandatory minimums prescribed by Section 102 of the Wildlife Conservation and Management Act. It is further submitted that under the Judiciary's Sentencing Policy Guidelines of 2016, a court is bound by such statutory provisions and possesses no discretion to impose a sentence lower than the prescribed minimum.
11. Furthermore, the Respondent asserts that there is no basis for this Court to disturb the trial court's decision, as the sentence was neither illegal nor manifestly oppressive. Citing the case of **Bernard Kimani Gacheru vs Republic[2002] eKLR**, the Respondent emphasises that an appellate court should not interfere with the trial court's sentencing discretion unless it is shown that the court acted on wrong principles or overlooked material factors, which the Applicant has failed to demonstrate.
12. Regarding the issue of legal representation, the Respondent submits that the right to state-funded counsel under Article 50 of the Constitution is not automatic but is qualified by whether substantial injustice would otherwise result.
13. The Respondent argues that the charges were not capital offences and the Applicant has not shown any specific injustice suffered. Therefore, the proceedings were not rendered irregular by the lack of legal counsel. Consequently, the Respondent maintains that the revision is without merit and prays for its dismissal.

#### **Analysis and Determination**

14. Upon considering the Application before this Court and the Respondent's Submissions, the issue for determination is whether the Applicant's sentence can be revised to lenient terms.
15. The revisionary power of the High Court is drawn from its supervisory jurisdiction grounded in Article 167(6) & (7) of the Constitution which provides:

***“(6)The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but not over a superior court.(7) For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.”***

16. Further, on the High Court’s revisionary criminal jurisdiction, Section 362 of the Criminal Procedure Code provides as follows:-

***“The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court.”***

17. The High Court will generally only disturb a sentence from a magistrate’s court if it is shown to be manifestly excessive, illegal, or based on a wrong principle of law. Because sentencing is a matter of judicial discretion, the High Court does not step in simply because it would have given a slightly different punishment; instead, it intervenes only when the magistrate failed to consider relevant factors, or took into account irrelevant ones.

18. A perusal of the original record and the typed copy of proceedings reveals that the Applicant here took plea on the 9<sup>th</sup> January, 2025, whereby he pleaded guilty to the two counts. The facts were read as per the charge sheet and in Kiswahili, which he said he understood well, and he responded in Kiswahili: ***“Nakubali”*** (I admit). This Court is satisfied that the trial court adhered to the laid-down procedure in taking this plea. The plea was thus unequivocal.

19. In respect of the charges against the Applicant, Section 102 (1) (a) (g) and (h) of the Wildlife Conservation and Management Act provide that:-

*“Any person who without a licence or permit of the Service in respect of any national park, national reserve, wildlife sanctuary or marine reserve, or, without authorization from the authority responsible for any other protected area as the case may be— (a) enters or resides in a protected area otherwise than in the course of his duty as an authorized officer or a person lawfully employed in the protected area, as the case may be.....(g) undertakes any extractive activity in a protected area.(h) undertakes any related activity in wildlife protected areas contrary to the provisions of this Act: commits an offence and is liable on conviction to a fine of not less than two hundred thousand shillings or to imprisonment of not less than two years or to both such fine and imprisonment.”*

20. The above are minimum sentences of not less than two years imprisonment or a fine of not less than two hundred thousand shillings for each of the offences committed by the Applicant herein. Therefore, there would have been no basis for the trial court to go below said set sentences.
21. This Court is satisfied that the sentences meted out against the Applicant were strictly guided by the provisions of the Wildlife Conservation and Management Act. In the circumstances, the sentence was lawful and cannot be characterised as harsh or excessive to warrant interference by this Court.
22. In light of the foregoing, the Applicant’s Revision Application dated 20<sup>th</sup> February 2025 is devoid of merit. The same is hereby dismissed.

**Dated, signed and delivered at Nakuru this 19<sup>th</sup> Day of March, 2026.**

**PATRICIA GICHOHI**  
**JUDGE**

**In the presence of:**

**Paul Mwangi Wanjiku-Applicant**

**Ms Mwaura for Respondent**

ORIGINAL