

**IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CRIMINAL APPEAL NO. 33 OF 2007**

BETWEEN

ISAAC NAMPUTO APPELLANT

VS

THE REPUBLIC

CORAM HON. JUSTICE NYIRENDA

K. Jere Counsel for the State
Unrepresented Counsel for the Applicant
Mr. Kaferanthu Court Interpreter
Miss C. Jalasi Court Reporter

JUDGMENT

This is an appeal against sentence only, the appellant having pleaded guilty to a charge of being found in unlawful possession of trophy contrary to section 91 (1) of the National Parks and Wildlife Act. Upon conviction the appellant was sentenced to a fine of K100,000.00 in default 12 months imprisonment with hard labour. The appellant is in custody apparently having failed to pay the fine. His appeal to this court is that the fine was manifestly excessive. Counsel Jere on behalf of the State agrees that the fine was indeed excessive.

As it turns out, the fine imposed on the appellant is the maximum according to section 110 (b) of the Act which provides for penalties. There

is no explanation why the magistrate imposed the maximum fine for an accused who pleaded guilty and was a first offender.

The other point is that the appellant was not examined as to his ability to pay the fine. The fine was therefore arbitrary.

I would set aside the sentence and proceed to examine the appellant to ascertain his means in order for me to determine if the appellant is in a position to pay a meaningful fine in the circumstances of the case. I proceed accordingly.

A.K.C. Nyirenda
J U D G E