



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CRIMINAL DIVISION

CONFIRMATION CASE NO. 260 OF 2021

(Being Criminal Case No 192 of 2020 in the First Grade Magistrate Court sitting at Nsanje)

THE REPUBLIC

-V-

CHAKWAMBA ELIAS

CORAM: HON. JUSTICE AGNES PATEMBA

Ms. L. Kulesi, Counsel for the State

Mr. Panyanja, Counsel for the Convict

Mrs. Chiusiwa, Court Reporter

Mr Amos, Official Interpreter

ORDER ON CONFIRMATION

1. The Convict Chakwamba Elias aged 26, from Mpomba village, Traditional Authority Chimomba in Nsanje district was convicted in the First Grade Magistrate Court of the offence of possession of specimen of endangered species without permit contrary to section 86 (1) as read with section 110A (b) of the National Parks and Wildlife Act part 11B (2) of National Parks and Wildlife (Protected, Endangered and Listed Species (Declaration) Order, 2017.
2. Upon review, the reviewing judge was of the considered view that the sentence imposed by the lower court was on a lower side and ordered that the matter be set down to consider enhancement of the sentence.

3. At the hearing, both the State and the Defence submitted that the sentence should be confirmed considering that the value of the endangered species which was in his possession was K7, 800.00 and the Convict was charged a fine of K250,000.00 in default 36 months IHL. The Convict is the first offender and prayed that the court should be lenient with the Convict.
4. The Court indeed agreed with both parties to confirm the sentence. The Court did not find any reasonable ground to tamper with the sentence imposed by the lower court. Consideration was given to the value of the specimen that was found in possession by the convict. The law provides that any fine imposed on the convict shall not be less than the value of the specimen involved in the commission of the offence. The fine of K250, 000.00 that was imposed is far above the value of the specimen that was found in possession by the Convict.
5. In our considered view, the sentence imposed by a lower court is adequate. I therefore confirm the sentence of a fine of K250, 000.00 and in default 36 months IHL.
6. So I order.

Delivered this **28th** Day of **July** 2021.



AGNES PATEMBA,
JUDGE