



**Otieno v Republic (Revision Case 1490 of 2024)
[2024] KEHC 11825 (KLR) (Crim) (25 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11825 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
REVISION CASE 1490 OF 2024
AM MUTETI, J
SEPTEMBER 25, 2024**

BETWEEN

PHILIP OTIENO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. I have reviewed the documents filed by the applicant indicating that he was convicted and sentenced on 16th September 2024.
2. The nature of the offence that the applicant was charged with is not one in my view that should have attracted such a heavy penalty in terms of a fine and in default imprisonment.
3. It is in my considered view a matter that could have been diverted from the system or at least a non-custodial sentence imposed in the alternative of a reasonable fine. I have considered that the applicant has been in custody for 10 days.
4. In my view he has learnt his lesson and I hereby reduce the period of sentence from 2 months and 7 days to the period already served in exercise of the powers of this court under Section 364 of the [Criminal Procedure Code](#) Cap 75 of Laws of Kenya. It is a matter of a common notoriety that wearing uniform by PSV drivers has long ceased and the industry reverted to civilian attire of one's choice.
5. The punishment has enabled him to know that ferrying excess passengers is wrong and should be avoided.
6. He is therefore to be released from prison custody immediately. It is so ordered.



DATED, SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 25TH DAY OF SEPTEMBER 2024.

A. M. MUTETI

JUDGE

In the presence of:

Kiptoo: Court Assistant

No appearance for the Applicant

No appearance for the Respondent

