

REPUBLIC OF KENYA

HIGH COURT OF KENYA

AT KERICHO

CRIMINAL REVISION NO. E074 OF 2022

VK.....APPLICANT

V E R S U S

REPUBLIC.....RESPONDENT

R U L I N G

1. The Applicant was convicted with the offence being in Possession of alcoholic Drinks without a licence Contrary to Section 27 (1) (b) as read with Section 27 (4) of the Alcoholic Drinks Control Act No.4 of 2010.
2. The Applicant pleaded guilty to the charge and he was sentence to pay a fine of Kshs.20,000/= in default to serve 2 months in jail on 21/3/2022.
3. The applicant applied for review of the said sentence on the grounds that he is a minor aged 16 years having been born on 8/5/2006 and further that he is a pupil at [Particulars Withheld] Primary School have sat for KCPE this year.
4. The Applicant attached a copy of his birth certificate and a letter from the Head Teacher to confirm the same.
5. In view of the evidence attached showing the applicant is a minor, he is discharged under Section 35(1)(a) of the Criminal Procedure Code.
6. Section 35(1) of Penal code provides as follows:-

“35.(1) where a court by or before which a person is convicted over an offence is opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order under the Probation of Offenders Act is not appropriate, the court may make an order discharging him absolutely or, if the court deems fit, discharging his subject to the condition that he commits no offence during such period, not exceeding 12 months from the date of the order, as may be specified therein.

7. I direct that the Applicant to be set free forthwith unless lawfully held for any other reason.

DELIVERED, DATED AND SIGNED AT KERICHO THIS 25TH DAY OF MARCH, 2022.

A. N. ONGERI

JUDGE