



REPUBLIC OF KENYA



KENYA LAW
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**Dindi v Republic (Criminal Revision E050 of 2022)
[2022] KEHC 12572 (KLR) (1 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 12572 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL REVISION E050 OF 2022**

**JN KAMAU, J
AUGUST 1, 2022**

BETWEEN

DANIEL DINDI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of causing death by dangerous driving contrary to section 49 of the *Traffic Act* cap 403 (laws of Kenya). Failing to report an accident contrary to section 73 (3) as read with section 75 of the *Traffic Act*, Riding a motor cycle without insurance contrary to section 103 (3) as read with section 103A (F) of the *Traffic Act* and riding a motor cycle on a public road without a driving licence contrary to section 103 B (5) as read with section 103 B (F) of the Traffic Amendment Act. He pleaded guilty to all charges on June 3, 2021.
2. The report by Bernard O Musitia, the probation/community service officer dated July 25, 2022 has recommended that the applicant serves the remainder of his sentence at Madende Dispensary. This court notes that the applicant has already completed his sentence.
3. According to section 28 (2) of the *Penal Code* cap 63 (laws of Kenya) provides that where the fine exceeds Kshs 75,000/= but does not exceed Kshs 50,000/=, the default sentence is six (6) months imprisonment. As the applicant was discharged on counts (2), (3) and (4) and fined Kshs 50,000/= in default two (2) years imprisonment on count I, the default sentence in prison was six (6) months. Having been sentenced on August 3, 2021, he has already completed his sentence, the sentence of two (2) years having been unlawful, illegal and lacking in any legal basis.
4. It is hereby directed that the applicant be and is hereby released from custody forthwith unless he be held for any other lawful cause.

Orders accordingly.



DATED AND DELIVERED AT BUSIA ON THIS 1ST DAY OF AUGUST 2022.

J KAMAU

JUDGE

