

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION NO. 48 OF 2020

(CORAM: R. E. ABURILI - J.)

PHILIP OLOO OWINO.....APPLICANT

VERSUS

REPUBLIC..... RESPONDENT

(Being an Application for Revision of sentence vide Traffic Case No. 11 of 2020 in the Senior Resident Magistrate's Court, Ukwala dated 7.2.2020 before Hon. C.N. Sindani, SRM)

RULING

1. The convict **Philip Oloo Owino** was convicted and sentenced to pay fines of Kshs. 5000/= in each of the two counts of riding a motorcycle on a public road without a driving licence contrary to **Section 103(B)(5) as read with Section 103(B)(7) of the Traffic Act Cap 403 of Laws of Kenya** and riding a motorcycle on a public road without insurance contrary to **Section 103(B)(3) as read with Section 103(B)(7) of the Insurance Act Cap 405 of the Laws of Kenya**.
2. In default of the fines imposed, the convict was to serve three months imprisonment on each count, prison terms to be concurrent. This was on 7/2/2020, after the convict pleaded guilty and was convicted accordingly.
3. He has not appealed.
4. Following the outbreak of COVID-19 pandemic, NCAJ directed that courts consider short term prison terms with a view to revising them in order to decongest our prisons hence the request by Officer Incharge Siaya G.K Prisons dated 29/3/2020.
5. I have considered the request which is accompanied by an Assessment Report on the conduct, character and discipline of the convicted prisoner seeking sentence revision. The convict is said to be of good character, well behaved and disciplined, with no misconduct in prison.
6. A Social Inquiry Report would have been ideal but the necessary restrictions on accessibility of prisons by probation officers makes it impossible for visitations and necessary interviews.
7. For the above reasons, I exercise discretion under **Section 35 of the Penal Code** and order that the convict **Philip Oloo Owino** shall be released from prison to serve suspended sentence of the remainder of the prison term, with a warning not to reoffend for the next 12 months breach of which he shall be recommitted to prison to complete sentence.
8. Orders accordingly.

Dated, signed and Delivered at Siaya, this 30th Day of March, 2020.

R.E. ABURILI

JUDGE