

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

CRIMINAL MISC. APPLICATION NO. 89 OF 2019

FRANCIS NGINYO NG'ANG'A.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant was charged, convicted and sentenced to 5 years imprisonment for offence of being a member of terrorist group contrary to section 24 of the Prevention of Terrorism Act of 2012.
2. He lodged Criminal Appeal No. 37 of 2017 which he withdrew on 23/7/2019.
3. He has now moved court via an application for court to consider the period he was in custody i.e. from 20/3/2015 to 22/6/2017 (2 years 3 months).
4. He says that he does not challenge the conviction and sentence by the trial court but wishes his sentence to be reduced by the period he was in custody prior to sentence.
5. The court notes that during sentencing on 22/6/2017 the trial court stated, ***“Considering the circumstances of the offence and the period the accused has stayed in custody..... it would exercise utmost leniency.....”*** and sentenced him to 5 years. The applicant abandoned the appeal.
6. The trial court considered the period applicant was in custody, thus sentenced him to a very lenient term.
7. **This court finds no merit in the application and same is dismissed.**

DATED, DELIVERED AND SIGNED AT GARISSA THIS 27TH DAY OF MAY, 2020.

.....

C. KARIUKI

JUDGE