

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT GARISSA

CRIMINAL REVISION NO. 110 OF 2019

FARAH HASSAN ABDI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The Applicant was charged with being unlawfully present in Kenya contrary to section 53(1) (j) as read with section 53(2) of the Citizenship and Immigration Act No. 30 of 2011.
2. Particulars being that on 29/4/2019 at Bore-Hole 11 area within Mandera Central Sub-County of Mandera County, being a Somali national, was found without any valid permit or pass allowing him to be present in Kenya.
3. He pleaded guilty to the offence and after mitigation he was fined Kshs.300,000/- and in default 4 years imprisonment.
4. His mitigation was that the person who employed him Maalim Osman brought him to Kenya. They were arrested together and he (Osman) bribed his way out. The sentence was effected on 8/5/2019.
5. He has now moved this court with a letter dated 9/7/2019 seeking court to revise sentence imposed in the trial court.
6. He says he is a poor boy though he does not say how old he is. He says he is remorseful without close relatives and was depending on neighbours.
7. On sentence the trial court never considered the fact that there was no record of the accused to whether he had committed previous offences nor the age of the person describing himself as a boy.
8. The person is ready to be repatriated if court finds fit to order for his release.
9. In the circumstances of the instant case the court makes the following orders;
 - i) **The sentence meted out to the applicant is reduced to the period served as by date of this ruling and order that he be released to the O.C.S. Mandera Police Station for repatriation immediately to Somalia.**

DATED, DELIVERED AND SIGNED AT GARISSA THIS 28TH DAY OF OCTOBER, 2020.

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C. KARIUKI

JUDGE