

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CRIMINAL REVISION NO.130 OF 2019

(From original conviction and sentence in Criminal Case No.2315 of 2019 of the

Chief Magistrate's Court at Kisii before Hon. N.S. Lutta –CM)

NICHOLAS OKIAGO.....APPLICANT

-VERSUS-

STATE.....RESPONDENT

RULING

I have considered the application for review dated 23/9/2019. The applicant was charged with the offence of dealing in alcoholic drinks without licence contrary to section 8(1) (B) as read with section 71 of the Kisii County Alcoholic Drinks Control Act.

The applicant took plea on the 16/9/2019. After he took plea he pleaded guilty and thereafter the trial court fined him Kshs.30, 000/= in default 3 months imprisonment. No plea of guilty was entered nor were the facts read to him as required by the law (see section 207 of the Criminal procedure Code Cap 75 Laws of Kenya).From the court record the applicant's conviction was irregular and unsafe. His conviction is therefore set aside and the sentence too. He is free to go unless lawfully held.

Dated, signed and delivered at Kisii this 27th September, 2019.

R.E. OUGO

JUDGE

In the presence of;

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|------------|----------------------------|-------------------|
| Applicant | Present in person | |
| Mr. Otieno | Senior Prosecution Counsel | Office of the DPP |
| Ms. Rael | Court Clerk | |