

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL DIVISION

SIAYA CR. REV. NO. 36 OF 2019

THOMAS VENGE NZYIMI APPELLANT

VERSUS

REPUBLIC RESPONDENT

(Being an application for Revision of sentence in Ukwala PM'S Traffic Case No. 70 of 2019 dated 23.4.2019 before Hon. G. Adhiambo – P.M.).

RULING

1. On 23.4.2019 the Applicant **Thomas Venge Nzyimi** was convicted for the offence of causing death by dangerous driving. He pleaded guilty and after the Court considered his mitigation, he was sentenced to serve 3 years imprisonment.
2. On 12.7.2019 he filed this application for revision. In sentencing the Applicant/Convict herein Hon G. Adhiambo P.M. took into account mitigations, the fact that he was a first offender and the lost life due to recklessness of the Accused.
3. The sentence meted out was lawful and lenient bearing in mind the seriousness of the offence that led to loss of life and serious injury to another person.
4. In my view I find no compelling reason to revise the sentence, Furthermore, the Applicant has a pending HCCRA 31/2019 which disentitles him to discretionary revisionary powers.
5. Albeit the convict claims that he has a family with children who depend on him, the deceased too deserved to live his life fully. He must have had dependants too who have been left to fend for themselves. As for the Applicant's dependants, at least they can have hope that he will serve such short term sentence and return to work and care for them.
9. The dead too deserve justice. The Applicant should remain behind bars and off the road for some time so as not to be such a danger to innocent road users. Road accidents have claimed many innocent lives.
10. Accordingly, I find no compelling reason or ground to revise the sentence of 3 years imprisonment imposed.
11. The application is rejected and dismissed.
12. File closed.

DATED AT SIAYA THIS 26 DAY OF SEPTEMBER, 2019.

HON. LADY JUSTICE R. E. ABURILI

JUDGE