

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL REVISION NO. 105 OF 2019

STEPHEN ODHIAMBO JUMA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(Being an Application for Revision of sentence in Traffic Case No. 247 of 2019 at Siaya Principal Magistrate's Court, delivered on 18.9.2019)

RULING

1. The convict was sentenced to serve 3 months imprisonment in default to pay a fine of Kshs. 16,000/= for the offence of Riding a motorcycle without an Insurance, Driving licence, Helmet and Reflective jacket. This was after he pleaded guilty to the charge which plea was unequivocal.
2. The sentence is lawful and lenient. The offence is however serious as the convict not only endangered himself but his pillion passengers and other road users.
3. Nonetheless, for the short sentence, the convict could have been handed an alternative sentence to custodial one to reduce prison congestion.
4. Accordingly, I exercise judicial discretion and revise the sentence imposed on the convict Stephen Odhiambo Juma and substitute it with a conditional discharge under Section 35 of the Penal Code for the remainder prison term, not to commit any offence in the next six months breach of which he shall be send back to prison to complete the remainder term.
5. In addition, the convict Stephen Odhiambo Juma shall not ride any motor vehicle or motorcycle before training in a licensed driving school and obtaining a valid driving licence. The conditional discharge is to enable him enrol in a driving school.
6. Orders accordingly.

Dated, signed and delivered at Siaya this 20th day of December 2019

R.E. ABURILI

JUDGE