

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION 96 OF 2019

SIAYA RESIDENT MAGISTRATE.....APPLICANT

VERSUS

REPUBLICRESPONDENT

GOO.....INTERESTED PARTY

(Being an Application for Revision by Siaya RESIDENT MAGISTRATE in Traffic Case No. 265 of 2019 dated 19th December, 2018)

RULING ON REVISION

1. This file is before this Court accompanied by Siaya Principal Magistrate's Court Traffic Case No. 265 of 2019 where the Convict GOO was convicted on his own plea of guilty on 22.11.2019 for the traffic offence of careless riding. Before sentencing, the trial Court rightly called for a Social Inquiry Report which showed that the Convict could be a mental patient.
2. The trial Court ordered for a mental assessment report which was done and filed in Court on 17.12.2019 showing that the Convict suffers from a mental condition and not fit to stand trial.
3. It is unfortunate that a mental patient is allowed to ride a motorcycle and cause accidents for which he cannot be held liable on account of mental illness.
4. For that reason, and as the convict is likely to endanger himself and other road users if he is released from custody before he is committed to hospital for treatment, I order that GOO shall immediately be committed to Mathari Hospital for psychiatric/Mental treatment and that a report be provided to the Court after every three months on the status and progress of treatment for further orders. Mention on 23.3.2020.
5. In the meantime, as the conviction was entered on a plea of guilty against a person of unsound mental faculty, I find that the convict had no capacity to plead to the charges facing him. The conviction is set aside and quashed. The file is remitted back to the trial court. Plea taking to await the psychiatrist's report form Mathari Hospital. Mention before the trial Court on 23.3.2020.
6. This order to be typed and served on the trial court and Prisons authority.
7. This file is closed.
8. Orders accordingly.

Dated, Signed and Delivered at Siaya this 19th day of December, 2019

R.E. ABURILI

JUDGE