

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

CRIMINAL REVISION NO. 145 OF 2016

PAUL KINYUA WAKUTHI.....APPLICANT

VERSUS

DIRECTOR OF PUBLIC PROSECUTIONS.....RESPONDENT

R U L I N G

1. This application is for revision under Sections 362 and 364 of the Criminal Procedure Code.
2. The applicant was convicted on his own plea of the offence of being in possession of cannabis sativa contrary to Section 3(1) 2(a) of the Narcotic Drugs and Psychotropic Substances Control Act, no. 4 of 1994. He was sentenced to three years imprisonment.
3. In this application, the applicant has no issue with the conviction and is only mitigating against the sentence which he considers as harsh. He complains that he was not given an option of fine. He further states that he has acquired skills in prison which will help him to make lawful earnings to sustain himself and family.
4. The provisions of Section 362 are designed to correct any finding, sentence or order by a magistrate where an illegality, irregularity, impropriety has been committed. In this application, the applicant does not fault the magistrate of any such illegality, impropriety or irregularity in passing sentence.
5. Section 3(2)(a) of the Narcotic Drugs & Psychotropic Substances Act provides for a maximum penalty of ten (10) years imprisonment. The applicant was sentenced to three years imprisonment which was within the law. The sentence meted out supports the fact that mitigation was considered by the trial court.
6. All considered I find that this application does not satisfy the requirements of Section 362 for revision and it is hereby dismissed.
7. The applicant to be served with a copy of the ruling.
8. It is hereby so ordered.

DATED AND SIGNED AT EMBU THIS 11TH DAY OF APRIL 2017.

F. MUCHEMI

JUDGE