



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT GARISSA**  
**CRIMINAL APPEAL NO. 12 OF 2016**

**ABDIKADIR SHARIF ABDINOOR.....APPELLANT**

**VS**

**REPUBLIC.....RESPONDENT**

**RULING**

This matter came to this court on appeal, and the court delivered its judgment in the appeal on 10<sup>th</sup> November 2016. The sentence for court 1 was reduced from a fine of Kshs. 5million in default 5years imprisonment to a fine of Kshs. 3million and in default imprisonment for 3years. The sentence for count 2 was reduced from a fine of Kshs. 500,000 in default 5years imprisonment to a fine of Kshs. 300,000 and in default imprisonment for 2years.

The appellant has come back to this court with a request filed on 24<sup>th</sup> April 2017 for orders that the court orders that he pays the fine for Kshs. 300,000 for count 2, as he completed the prison sentence for court 1.

When the appellant appeared in this court on 30<sup>th</sup> May, 2017 he emphasized that he had only 1year and four months to serve in prison. According to him the order sought herein were justified.

Learned Principal Prosecuting Counsel Mr. Okemwa submitted that the appellant wanted a clarification regarding service of sentence, but emphasized that the sentence for count 1 had to be served first.

Having considered the request and submissions of the appellant and the submissions of the Principal Prosecuting Counsel, I am of the view that the service of sentences is guided by the Prisons Act and Regulations. This court cannot determine the calculation of remainder of prison sentence or a fine, unless there is a dispute. I have not been told that there is any dispute in determining the fine payable and the remaining prison term. Therefore in my view, there is not issue for determination by this court.

If the appellant wants to pay the fine for court 2, he should consult the Garissa GK Prison Officers and the Deputy Registrar of this court, and pay the fine for the period which he has not served.

This court cannot order that he pays a fine of Kshs. 300,000. I decline the request of the appellant and dismiss his request.

**Dated and delivered at Garissa on 30<sup>th</sup> June, 2017.**

**GEORGE DULU**

**JUDGE**