

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NO. 186 OF 2017

DANIEL KOFI GYAMFI..... APPELLANT

VERSUS

REPUBLIC..... RESPONDENT

RULING

The Applicant herein was charged with the offence of possessing and using passport contrary to Section 54(1) (c) as read with Section 54 (2) of the Kenya citizenship and Immigration Act, 2011 Laws of Kenya.

The particulars of the offence were that On the 18th day of June, 2017 at Jomo Kenyatta International Airport, within Nairobi County, being a Ghanaian National holder of Republic of Ghana passport number **Hxxx** was found using a forged Republic of South Africa passport number **Axxxx**, in that he substituted the Bio Data page.

The Applicant was convicted on his own plea of guilty and was sentenced to pay a fine of Kshs. 300,000/= in default serve 2 years imprisonment. The court also ordered for his repatriation to his country of origin, Ghana. In the instant application, he prays that his sentence be reduced or set aside. He said he was ready to return to his mother country, Ghana at his own cost. His mitigation was that he acquired the forged passport through an agent and all along he had never known that the passport was forged until he arrived in Kenya.

I have considered the fact that the Applicant is willing to return to his mother country at his own cost. Bearing in mind that his continued stay in prison is an expense to the tax payers as, in any event he shall not afford the fine, the best recourse is to have him released from the prison and he returns to Ghana. In the result, I set aside the sentence. I order that the Applicant be forthwith set free. He shall be repatriated to his home country, Ghana at his own cost. He shall be released to Industrial Area Police Station, Immigration Department for purposes of processing him to return to Ghana. As he cannot travel on the forged passport the Director of Immigrations is directed to process papers that shall facilitate the Applicant to travel to Ghana. It is ordered.

Dated and delivered at Nairobi this 23rd October, 2017.

G.W.NGENYE-MACHARIA

JUDGE

In the presence of:

- 1. Appellant in person.*
- 2. Miss Kimiri for the Respondent.*