



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT KITALE

REVISION NO. 3 OF 2016

(Being an Appeal from the conviction and sentence of the Kitale Senior Resident Magistrate

V. O. Adet delivered on 12th February, 2016 in Criminal Case NO. 702 of 2016)

PATRICK WEKESA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

1. The applicant , **PATRICK WEKESA** was charged with the offence of Possessing Alcoholic Drink that does not conform to the requirement of Alcoholic drinks control Act contrary to section 27(10(6) as read with section 27(4) of the Alcoholic drinks control Act NO. 4 of 2010.

The particulars are that on 11th day of February 2016 at Bwayi within Trans Nzoia County was found possessing alcoholic drink that does not conform to the requirements of Alcoholic Drink Control Act namely 20 litres changaa without a Liquor Licence issued by Sub-county Alcoholic Regulation Committee as stipulated by section 8(1) of the Alcoholic Drinks Control Act No. 4 of 2010.

2. The appellant pleaded guilty and was convicted and sentenced to a fine of Kshs 40,000/- in default three (3) months imprisonment. The appellant has applied for the revision of the sentence. The appellant has stated that he is the sole bread winner of his family. He has also stated that he is asthmatic and unable to pay the fine.

3. I have considered the application and the provisions of section 362 and 364 of the Penal Code. Under Section 28 (2) of the Penal Code, a sentence of three (3) months attracts a fine not exceeding kshs 15,000/- .

The fine of Kshs 40,000/- in default three (3) months imprisonment imposed by the Trial Court is therefore illegal.

I correct the same to read Kshs 15,000/- in default three(3) months imprisonment.

Orders accordingly.

B. THURANIRA JADEN

JUDGE

Dated and delivered at Kitale this 23rd day of march 2016.

B. THURANIRA JADEN

JUDGE