

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CRIMINAL REVISION NO. 140 OF 2015

AYUB KARANJA MWANGI..... APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The application before me is for revision of the sentence imposed on the Applicant. He was charged with four counts under Traffic Act Cap 403 Laws of Kenya. In count 1, he was charged with careless driving, count II, with failing to report an accident, count III, failing to stop after an accident and in count IV, failing to renew driving license. He was convicted on his own plea of guilty. In count I, he was sentenced to a fine of Kshs. 80,000/= in default serve one year imprisonment. In count II to IV, he was fined Kshs. 20,000/= on each of the counts in default serve four months imprisonment respectively. The sentence was passed on 24th May, 2016.

In his application by Chamber Summons filed on 5th July, 2016, he contests that the sentence imposed was harsh and excessive. That in so imposing the sentence, the learned trial magistrate failed to take into consideration that he was a first offender, that he pleaded guilty and therefore saved the court's time and that he was suffering from peptic ulcers. In his further oral submission in court, he stated that the trial magistrate also failed to consider that no one was injured in the accident.

Learned State Counsel Ms. Kimiri opposed the application. She submitted that the sentence was reasonable and that the application had been brought too soon after the conviction. She urged that the Applicant should serve at least half of the sentence before seeking a review.

I have considered the application and the respective submissions. I entirely agree with the State Counsel that the application has been filed too soon after the conviction. The Applicant must pay the fine or at least serve a reasonable portion of the sentence before the court can consider a revision of the sentence. Further, a look at the particulars of Count I, contrasts the Applicant's submission that no one was injured in the accident. They clearly state that one pedestrian was hit and sustained injuries. For those reasons, pursuant to the powers conferred on this court under Section 364 of the Criminal Procedure Code, the application herein is dismissed. It is so ordered

DATED and DELIVERED this 25th day of July, 2016

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

1. *Applicant in person.*

2. *Ms. Sigei for the Respondent*