

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL REVISION NO. 94 OF 2016

PATRICK MAINA WAMBUI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

ORDER IN REVISION

1. The applicant was sentenced to serve community service for 8 months on 7th April 2016 by the High Court (Wakiaga, J) during the revision of his application, under section 362 of the Criminal Procedure Code, (Cap 63) Laws of Kenya. He had been sentenced to serve two years imprisonment on 8th December 2014 by the court of the Principal Magistrate at Runyenjes.

2. The applicant had been sentenced to serve community service at Macumo Primary School for 8 months. While doing so, he absconded and never to return to that school until he was arrested by the Assistant Chief upon being requested to do so by the Probation Officer. When he was brought to court, he was asked to explain why he had absconded from performing community service at that school. His explanation was that he fell sick and as a result he attended hospital. The applicant produced medical attendance documents which were produced in court as exhibit 1.

3. The Probation Officer, Mr Peter Munyi, submitted that the medical attendance documents showed that the applicant was treated on 23rd June 2016 and discharged. According to him, the medical documents relate to a different period and they do not apply to the period when he was sentenced to 8 months to serve community service.

4. I have examined those medical documents of the applicant and I find that they do not relate to the period during which he was required to serve community service. I therefore reject his explanation for being absent from where he had been ordered to serve the sentence for 8 months.

5. In the light of the foregoing, I hereby sentence the applicant to 8 months imprisonment. In doing so, I have taken into account that he had served for a period of 11 months before he was sentenced to serve 8 months of community service.

RULING DELIVERED, DATED and SIGNED in open court at **EMBU** this 31st day of August **2016**.

In the presence of both the Applicant and Ms Florence Miruka (Probation officer) for the Respondent

Court clerk Njue

J.M. BWONWONGA

JUDGE

31/08/2016