

REPUBLIC OF KENYA

IN THE HIGH COURT AT MALINDI

CRIMINAL REVISION NO. 145 OF 2015

REPUBLICAPPLICANT

VERSUS

DANIEL KARIUKI KIARIE.....RESPONDENT

(From the original conviction and sentence of the Chief Magistrate's Court at Malindi Criminal Case No. 663 of 2013 and 774 of 2013)

ORDERS ON REVISION

I have perused the records of the two files namely Criminal Cases No. 662 of 2013 and 774 of 2013. The accused was sentenced to serve two years imprisonment in Criminal Case No. 774/2013. The sentence was passed on 2nd January, 2014. He has now served over one year. In criminal case No. 662/2013 the accused was sentenced to serve six (6) years. The sentence was passed on 4th February, 2015. Since the sentences were for different cases and judgments were delivered on different dates, each sentence should run on its own. The accused is entitled to the benefit of serving two sentences at the same time. The accused cannot benefit from the period he served between January, 2014 to 4th February, 2015 when the second sentence was passed. The sentence in criminal case no. 662 of 2013 shall start to run from 4th February, 2013. In essence, the accused shall serve the remainder of his sentence in criminal case No. 774 of 2013 of about eight months within the sentence period of six (6) years.

I do find that since there was only one count in each file, each sentence shall run separately but at the same time. The accused shall serve two years imprisonment from 2nd January, 2014 and six (6) years imprisonment from 4th February, 2015.

Delivered and dated at Malindi this **26th** day of **March, 2015**

Said J. Chitembwe

JUDGE