



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL REVISION NO.56 OF 2015**

**FROM ORIGINAL CONVICTION AND**

**SENTENCE IN CR.C. NO.1632 OF 2014**

**ABDULLAHI DIRIGE .....APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**RULING**

By Notice of Motion dated 15<sup>th</sup> April, 2015, the applicant herein applies for revision of Makadara Chief Magistrate court's order made on 3<sup>rd</sup> April, 2014.

He argues that he was convicted and sentenced without being given an opportunity to be represented by an advocate thus violating his fundamental constitutional right and breaching rules of natural justice, in particular right to a fair hearing; that the procedure of taking a plea was not adhered to; that although the applicant pleaded guilty, the sentence meted against him was harsh in the circumstances; that the facts as read were not correct and that the learned trial court did not explain to him the magnitude of the offences.

The file is brought before this court pursuant to Section 363(2) of the Criminal Procedure Code so that this court can satisfy itself as to the correctness, legality and propriety of the decision and/or regularity of the proceedings.

From the Notice of Motion, the applicant was charged with two counts; namely creating disturbance in a manner likely to cause a breach of peace Contrary to Section 95(1) of the Penal code and entering into a security restricted area and committing an offence contrary to regulation 56 of Legal Notice No.89 of 2008 of Civil Aviation Act Cap 394, Laws of Kenya.

He was convicted on his own plea of guilty and sentenced to a fine of Kshs.10,000/- in default serve six months imprisonment in respect of count I and Kshs.40,000/- in default six months imprisonment in respect of count II.

Under Section 364(5) of the Criminal Procedure Code, a revision should not be sought where an appeal lies. All the issues raised by the applicant in this application can only be considered in an appeal. He was accorded the right of appeal upon conviction and sentencing. That right is unfettered and he ought to exercise it.

In the result, I decline the revision and accordingly dismiss the application.

It is so ordered.

**DATED and DELIVERED in NAIROBI this 21<sup>st</sup> day of April, 2015.**

**G. W. NGENYE – MACHARIA**

**JUDGE**