



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**  
**(CRIMINAL DIVISION)**  
**CRIMINAL REVISION NUMBER 19 OF 2015**

**Republic .....Prosecutor**

**VERSUS**

**Anthony Maina Wahio.....Accused**

**RULING**

This is a revision pursuant to the provisions of Section 362 of the Criminal Procedure Code.<sup>[1]</sup> The power of the High Court under Section 362 of the Criminal Procedure Code<sup>[2]</sup> is for the High Court to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of the proceedings.

The accused was tried and convicted on his own plea of guilty of the offence of being in possession of Cannabis contrary to Section 3 (1) (a) of the Psychotropic Substances Act<sup>[3]</sup> and sentenced to serve three years imprisonment on 28.3.2014.

Before passing the sentence, the Learned Magistrate asked for a report from the Probation Officer. The Community Service Officer, Mukurweini submitted a pre-sentence report dated 28.3. 2014. The report was unfavourable to the accused and recommended that the home environment was not conducive for him.

A sentence review report dated 19. 12.2014 was filed in court prompting this revision. Just like the first report, the second report reviewed that relatives have a negative attitude towards him and are not ready to receive him back. The home environment is not conducive for him.

I have considered the accused pleaded guilty to the offence and I have also considered the said report and I am persuaded that the family and the community are not yet ready to receive him back. I have also considered the purpose of sentencing and the principles of sentencing under the common law<sup>[4]</sup> which are *inter alia* to :-

- i. To protect the community from the offender;
- ii. To promote the rehabilitation of the offender;

I have also considered the sentence imposed and the remaining period of his sentence and I find that it may not be in the interests of the community, the family and the accused for this court to interfere with the said sentence. Accordingly, I order that the accused serves the remaining part of his sentence in prison.

Orders accordingly

**John M. Mativo**

**Judge**

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[1] Cap 75, Laws of Kenya

[2] Ibid

[3] Act No. 4 of 1994

[4] Regina vs MA {2004}145A