

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL REVISION NO.7 OF 2014

(Review on Judgment of Kericho CM Criminal Case No.851 of 2011

– Hon. L. Kiniale – Ag. Senior Resident Magistrate delivered on 24th June 2014)

JASON CHARLES CHORE - APPLICANT

VERSUS

REPUBLIC - RESPONDENT

RULING ON REVISION

Jason Charles Chore, hereinafter referred to as the Applicant, through the firm of Motanya & Co. Advocates, wrote the letter dated 19th June 2014, in which he complained that he did not get a fair trial before Hon. Kiniale, learned Resident Magistrate vide Kericho CM Criminal Case number 851 of 2011. He raised two complaints: First, that the trial magistrate unfairly denied him an adjournment and secondly, that he was forced to proceed for hearing without counsel representation when his advocate withdrew from acting for him. Pursuant to the aforesaid letter, this revision file was opened.

Let me from the outset state that the revision file before this court is not properly and competently before this court for two reasons. First, the proceedings relating to the above mentioned case have not been placed before this court to enable it exercise its revisionary power. The second challenge is the Provisions of Section 364(5) of the Criminal Procedure Code in which this court is barred from entertaining any proceeding by way of revision at the insistence of the party who could have appealed as a matter of right on a finding, sentence or order. It is apparent from the contents of the letter that Mr. Motanya, the author is still retained as the applicant's advocate. There is no doubt that being the accused's agent, he is bound by the provisions of Section 364(5) of the Criminal Procedure Code. For the above reasons I find the revision premature and incompetently before this court. I decline to exercise my supervisory power of revision and instead order that the revision be struck out.

Dated, signed and delivered in open court this 24th day of July 2014.

J. K. SERGON

JUDGE

In the presence of:

Miss. Kivali for Director of Public Prosecutions.

Mr. Motanya for Applicant