



REPUBLIC OF KENYA

IN THE HIGH OF COURT OF KENYA

AT KISUMU

CRIMINAL APPEAL NO. NO. 12 OF 2009

SALIM MACIHIA WANGA.....APPELLANT

VERSUS

REPUBLICRESPONDENT

REVISION

The court has perused the lower court file and found that in the first instance the appellant did not plead guilty to the charge but later on in the course of the proceedings he decided to change plea and requested for the charge to be read to him and when the charge was read to him he accepted the charge. When the facts were read to him, he accepted them to be correct and he was convicted and then sentenced to serve four (4) years on 23rd day of April 2008.

The complaint on appeal is that he pleaded guilty and that he still is remorseful and repentant. Further that he has become sickly and pleads for mercy.

The court notes that the appellant was intercepted before committing any offence. He is remorseful and pleads for mercy. He was sentenced on the 23rd day of April 2008 and as at now he has served two (2) years and 10 months of the sentence handed out. In this courts' opinion, that is sufficient punishment for a person in tending to commit a crime and since he is repentant and he has vowed not to repeat the offence, the court finds him to be a proper candidate to quench his thirst from the judicial fountain of mercy. The court therefore invoke its revisionary power as bestowed upon it by Section 362 of the Criminal Procedure Code as read with Section 364 of the same Criminal Procedure Code and revises the

sentence to one already served. He is ordered to be set at liberty forthwith in connection with the conviction which led to this appeal subject of this revision unless otherwise lawfully held.

Dated and reviewed at Kisumu this 23rd day of February 2011

**ROSELYN N. NAMBUYE
JUDGE**

RNN/aao