

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL REVISION NO. 115 OF 2010

[Arising from Criminal Case No. 2394 of 2010 of the Chief Magistrate's Court at Mombasa: M.K. Mwangi – S.R.M.)

KOMBO MWAKODZA KODZA APPLICANT
VERSUS
REPUBLIC RESPONDENT

RULING

The Accused **KOMBO MWAKODZA KODZA** had on 9th August 2010 been arraigned before the lower court on a charge of **TAKING PART IN A RIOT CONTRARY TO SECTION 80 OF THE PENAL CODE**. The accused pleaded guilty to the charge and after conviction was sentenced to a fine of Kshs.20,000/- in default to serve six (6) months imprisonment. By his letter dated 30th September 2010 the Headteacher of the **CONCORDIA PRIMARY SCHOOL** asks for a review of this sentence as the accused who is a pupil in the said school is registered to sit K.C.P.E. Exams vide Index Number 106323/78. Whilst the proceedings in the lower court were proper and procedural I do feel that in view of the fact that the accused is due to sit his K.C.P.E. Exam in November 2010 the sentence merits a review. This is to allow him a chance to complete his primary education which he cannot do whilst in prison. He has already spent 3 months behind bars which in my view is punishment enough. For this reason alone I do quash the sentence imposed by the trial court and substitute it with a term of time served. The accused to be set at liberty forthwith unless he is otherwise lawfully held.

Dated and Delivered at Mombasa this 28th day of October 2010.

M. ODERO
JUDGE