

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MALINDI

Criminal Revision 45 of 2007

PETER KAMAU KIMANI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

J U D G M E N T

The accused herein was released on Community Service Order by the court on 26/3/2007 to do community service for 2 months. The prosecution claims that he has violated the CSO, particularly section 5 thereof PW1 (Masinde Conrad), the Probation Officer testified that since placement on CSO on 26.3.2007 the accused only attended once. He prayed that the order should therefore be revoked by reason of violation.

The accused, Peter Kamau Kimani testified in his defence that he only attended once. Then his brother collected him and they went up-county for a burial, where he stayed for one week. That was the reason for violation of the CSO.

I have considered the evidence of both the prosecution and the accused. The accused admits that he has violated the CSO but maintains that he was prevented from attending by a funeral that took one week. He does not explain what prevented him from doing so since he came back from the funeral that took only one week. The whole of April, and May and part of June is unaccounted for. In the result I am of the view that the accused is not candid. I find as a fact that he has violated the CSO intentionally. Accordingly I revoke the CSO. In effect the accused will serve the remaining of his prison terms.

DATED and delivered at Malindi this 5th day of June 2007.

N.R.O.OMBIJA

JUDGE